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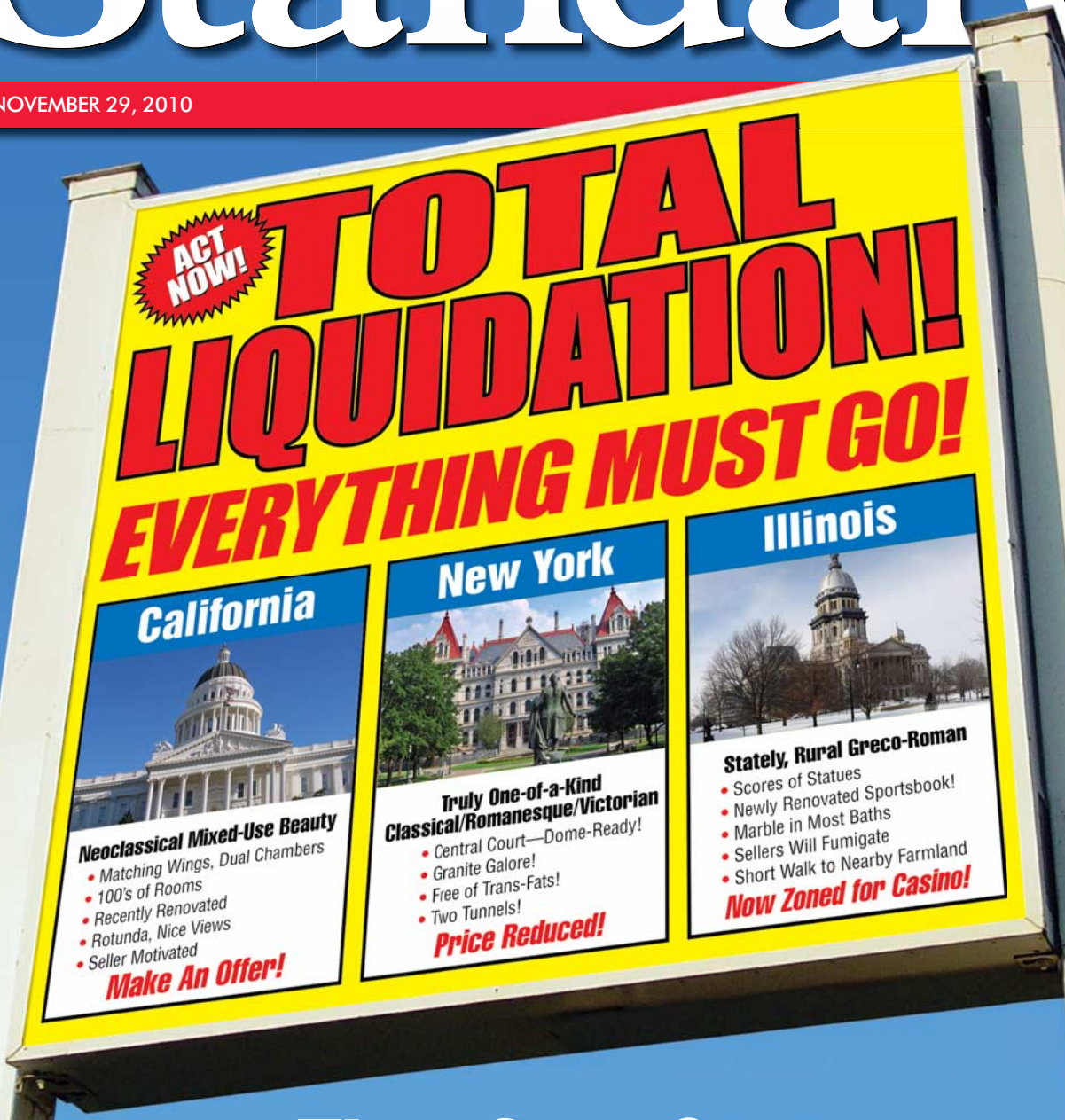
THOMAS JOSCELYN



Time for a State Bankruptcy Law

BY DAVID SKEEL

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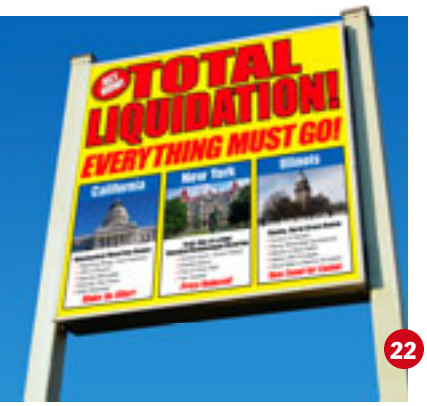

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Brown of the Beast

The Scrapbook is, frankly, delighted at the tidings that *Newsweek*, sold recently to 92-year-old billionaire Sidney Harman for one dollar, will be joining forces with the *Daily Beast*, the website that is Tina Brown's latest venture—there have been a few missteps along the way—to reproduce the buzz associated with her name during the Reagan administration.

Of course, that was then. And the fabulous world of media sorcery personified by Brown—and her Daddy Warbucks in this episode, Barry Diller—has changed a bit in the past decade. Exhibit A: Her new partner, *Newsweek*, was scarcely breathing when Harman forked over his buck to assume its debt. And Exhibit B: Her own *Daily Beast*, a compendium of buzzworthy stories, is still struggling (after two years) not to lose millions, much less turn a profit. Even the *New York Times* was mystified by this merger of "two properties that have almost nothing in common other than the fact that they both lose lots of money."

'Newsweek' (left) and the 'Daily Beast'

Still, as The Scrapbook acknowledges, it is difficult to keep an old buzzmistress down, and Tina Brown's introduction last week of the hybrid vehicle—*News Beast*? *Beastweek*? *Daily Week*?—had all the glitz and glamour of a champagne-and-caviar reception featuring Jay McInerney, Bianca Jagger, and Ivan Boesky at Studio 54: "What does this exciting new media marriage mean? It means the *Daily Beast*'s animal high spirits will now be teamed with a legendary, weekly print magazine . . . "

Except that, on reflection, The Scrapbook is slightly depressed by the spectacle, too. Tina Brown may be English by birth, but she has the persistence, longevity, and general character of a press agent in a Damon Runyon tale; as long as there are elderly male investors with stars in their eyes, she'll be generating buzz and making deals on her own behalf until doomsday.

Newsweek, however, does have a venerable history, and, while it has descended into self-parody during the past few years, it is a little disconcerting to see it grasping at the straw of a vanity web project with the jokey name of a mythical newspaper in a satirical novel about the press by Evelyn Waugh. Alas, *Newsweek* reminds The Scrapbook these days of Professor Rath (Emil Jannings), the stuffy secondary school teacher in *The Blue Angel* (1930), who falls for the cabaret singer Lola Lola (Marlene Dietrich) and, in a fit of passionate lunacy, quits his post to marry the object of his lust—and ends up penniless, cuckolded, humiliated, and dead. ♦

What They Were Thinking

DOUG MILLS / THE NEW YORK TIMES / REDUX

President Obama is held by President Lee Myung-bak and his wife Kim Yoon-ok, while preparing for a photo-op at the G-20 Summit in Seoul, November 11.

A Steiner Show

A note especially for our New England readers. Peter Steiner, whose cartoons enlivened these pages for our first decade, will have a collection of paintings on exhibit at the Hotchkiss Library, 10 Upper Main Street, Sharon, Connecticut, from December 1 to January 31. The opening reception will be Sunday December 5, from 3 to 5 P.M. ♦

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Books We Didn't Finish

Where's that fact-checker? From page 16 of C. Bradley Thompson and Yaron Brook's *Neoconservatism: An Obituary for an Idea*, which comes with a blurb by Glenn Beck:

> Who exactly are the neoconservatives, where did they come from, and what do they stand for? . . . Legend has it that neoconservatism was born at Brooklyn College during the late 1930s.

The true legend of course, is that neoconservatism was born at City College. ♦

Sentences We Almost Didn't Finish

SCRAPBOOK friend Michael Moynihan of *Reason* notes that the first paragraph of the *Guardian*'s review of George W. Bush's memoir is "pretty much what you would expect":

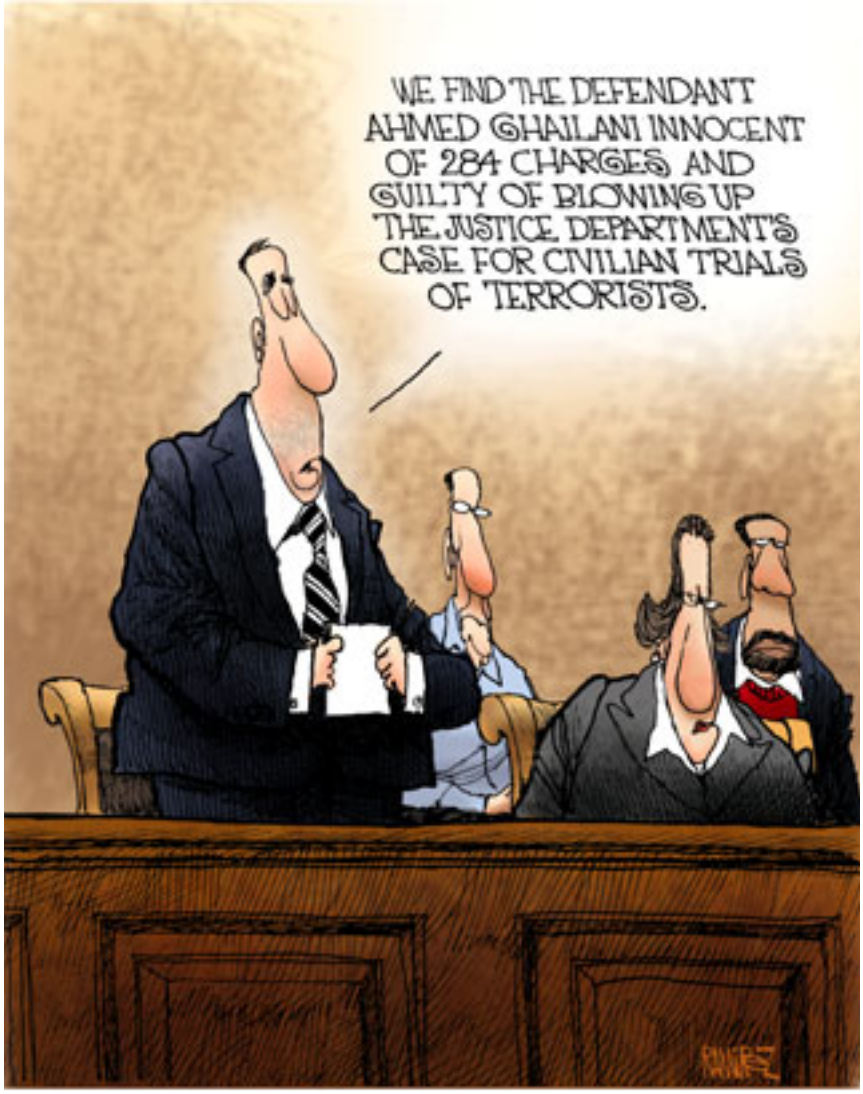
> This self-serving memoir confirms that George W. Bush is a moronic warmonger who can't think straight, can't string two words together and spent his presidency looking for countries to invade, oil to snatch and ways to make the world a more dangerous place.

But reviewer Alastair Campbell, who was Tony Blair's director of communications, is playing a cruel trick on his readers, for he continues:

> [*Guardian* readers] will nod amen to that. The problem is that none of the above is true. Cue avalanche of Guardian Online vitriol. You see, in Guardianland, as in other parts of the world, one is not supposed to think anything but ill of Bush.

Campbell concludes, instead,

> that you don't get to be U.S. president—twice—by being stupid; that [Bush] is more reflective and self-analytical than the public image suggests—a trait confirmed by his book; that September 11 changed the world in the eyes of most Americans; and that [Bush was not] hellbent on war in Iraq.



The whole review is very much worth your time and attention. It can be found online at www.guardian.co.uk/books. ♦

The Once & Future Minority Leader

A tip of THE SCRAPBOOK homburg to Nancy Pelosi, who led her party to a historic defeat on November 2. You might think that House Democrats need a leader like that the way a fish needs a bicycle. House Democrats, however, disagree and elected her on November 17 as their minority leader in the incoming Congress—the same post she held from 2003 to 2007.

In an interview with Deborah Solomon for the *New York Times Magazine*, the once and future minority leader puts on a brave face. "Why not just step down?" Solomon asks. "Well, don't forget that I led the party into the strong victories of '06 and '08," says Pelosi. "And now we are prepared to win again"—which, THE SCRAPBOOK believes, is probably what General Custer would have said had he survived the Battle of the Little Bighorn.

Pelosi also has a chip on her shoulder. Perhaps you didn't realize that she was the first female speaker of the House? "It didn't get that much play," she tells Solomon. "And I'm not a publicity seeker, so it was O.K. with me." (Obviously; you can see how she's put it behind her.) "Boehner, before the election, they had him on the cover of *Newsweek*. Now he's on the cover of *Time*, and women are coming to me

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and saying, 'Is the job less important when a woman holds it?'"

Solomon follows up:

> I'm sure you were on the cover of *Newsweek* and *Time* when you became Madame Speaker.
>
> PELOSI: No. No.
>
> SOLOMON: Maybe Tina Brown, the new editor of *Newsweek*, can put you on the cover now, only four years too late.
>
> PELOSI: My point is that when a man holds the job, the press seems to view it as more worthy of that kind of attention. But when a woman—even though it was historic—holds the job, they view it as less important. We have to dispel the notion that it's not as big a job when a woman has it.

Minority Leader-elect Nancy Pelosi: the first and only woman stress head in the history of the 'Weekly Standard' store.

THE SCRAPBOOK is holding hands with Pelosi here, metaphorically speaking of course. Unlike *Time* and *Newsweek*, we recognized what a historic figure Pelosi was. That's why, in the coveted WEEKLY STANDARD Stress Head collection (available at www.weeklystandardstore.com), you will not find a Speaker Boehner Stress Head. You will, however, find a stress head depicting Pelosi, the only woman to have received that distinction, along with the two most powerful men in the free world, President Obama and Vice President Biden. We would further note, not for any commercial purpose but as a token of our nondiscrimination, that the Pelosi Stress Head, shown here, retails for $9.99—the *same price* as the Obama and Biden Stress Heads. No 59-cents-on-the-dollar inequity when it comes to the first woman speaker—and, hey, come to think of it, now both the first *and* second woman to serve as minority leader. ♦

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Cruising for a Bruising

Two weeks ago, the Carnival cruise ship *Splendor* captured the world's attention. Following an onboard fire (resulting in no injuries), the cruise liner lost power and was stranded in the Pacific some 44 miles from shore. For three days, more than 4,000 passengers and crew members were deprived of electricity, facing a food shortage and, worst of all, toilets that didn't flush. Eventually the ship was towed back to San Diego harbor, though by then the stories had all trickled out: windowless cabins in complete darkness, long lines for hot dogs and yogurt, no showers, and, in case you missed it, toilets that didn't flush.

Understandably, some have called it a "nightmare" and the "cruise from hell." Yet I have my doubts—I'm pretty sure I was on the cruise from hell.

A few years ago one of my best friends announced he was getting married and that we should all plan for a cruise ship wedding. "Everyone's invited, including your parents," my friend told me. How generous of him—the weeklong excursion only cost $1,000 per person. (Destination weddings can be awfully presumptuous. While the bride and groom anticipate a smaller turnout than at a stateside affair, they do expect their closest friends to attend, regardless of the price. Failure to show up would risk offending them on their "special day.") But once having accepted the cost, I found it best to focus on the good times ahead.

On our first full day at sea we hit a storm. Our ship was surrounded by whitecaps and tossed violently about, making even the sea-legged among us queasy. Sick bags lined the ship every few feet, and guests made ample use of them. I witnessed an elderly couple fall out of one elevator and get thrown into another. A friend of mine saved a husband and wife from tumbling down a staircase. During dinner service, trays of plated food and glassware came crashing down. In the middle of the night, my wife and I were woken up by a terrifyingly loud bang—a 35-foot wave had slammed into the ship, knocking our television off the shelf and onto the floor.

DAVID CLARK

If you've never experienced this kind of seasickness before, imagine being on a plane during heavy turbulence. Now imagine that turbulence lasting an entire day. Lying on a couch on the middle deck, taking in small spoonfuls of ice cream, I had only two thoughts. One was, Let this day end. The other was, I can't believe I paid for the privilege of feeling this way.

The following day, the storm had passed—but the nightmare had just begun. By this time, we had all gotten acquainted with the bride's extended family. One of them—let's call him Uncle Lou—made quite an impression. On the dance floor he liked to jump around, showing off his moves. On one occasion, in fact, I didn't see him stop moving for at least two hours. For a while he was dancing with two African-American ladies, but when Uncle Lou got too cozy with them, they decided to sit down, prompting him to yell, "Hey, Chaka Khan, get back here!" When the two women glared at him, he replied, "Don't you be like that! Don't you be like that!"

None of us wanted to be anywhere near Uncle Lou, so when the ship arrived at our island destination, we studiously avoided the beach he was planning to invade. A relative of the groom did not heed our warning and later told us his day on the beach had been ruined by "Uncle Lou and his mouth."

The wedding ceremony itself was tasteful, at least until the end. A Scottish minister presided, and when he announced that "it is my privilege to introduce to you for the first time" my friend and his bride, Uncle Lou stood up and yelled, "Who let the dogs out? Woof, woof, woof, woof! Who let the dogs out? Woof, woof, woof, woof!"

The rest of us were aghast, but I seem to remember that most of the people on the bride's side were less than startled. Perhaps they'd been drinking to dull the pain. (Indeed, I noticed one of the bride's cousins had brought his drink to the ceremony. He'd also conveniently tucked a cigarette behind his ear.)

Not that we should get caught up in the details—after all, as the saying goes, "a wedding is one day, but marriage is a lifetime." Except in this case, the wedding was one week and the marriage lasted all of two years.

When the passengers aboard Carnival's *Splendor* made landfall, the television cameras were there to capture the expressions of relief, tears of happiness, and shouts of joy. They were truly the lucky ones. At least they didn't have to hear someone screaming, "Who let the dogs out? Woof, woof, woof, woof!"

Victorino Matus

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Holder's Sham Trial

'By prosecuting Ahmed Ghailani in federal court," Attorney General Eric Holder said in a May 21, 2009, statement, "we will ensure that he finally answers for his alleged role in the bombing of our embassies in Tanzania and Kenya." "This administration," Holder continued, "is committed to keeping the American people safe and upholding the rule of law, and by closing Guantánamo and bringing terrorists housed there to justice we will make our nation stronger and safer."

On November 17, 2010, however, Ahmed Ghailani was acquitted of more than 280 charges, including one count of murder for each of the 224 people killed by al Qaeda in the 1998 embassy bombings. Ghailani, in the end, was convicted of only one charge: conspiracy to blow up U.S. government buildings. The verdict was a stunning rebuke to Holder's and President Obama's plans to try Guantánamo detainees in U.S. federal courts.

Nonetheless, we've been told by the administration and its defenders that the Ghailani verdict proves the superiority of the criminal justice system. A Department of Justice spokesman said the administration was "pleased" with the verdict, because the one count on which Ghailani was convicted carries a sentence of at least 20 years in prison and possibly life. We should be content, the Obama administration claims, that Ghailani will not be set free any time soon.

That argument is a dodge. Ghailani was properly held at Guantánamo under the laws of war. The Obama administration did not need to try him in any venue. It is perfectly legal for the United States to hold Ghailani as an enemy combatant. In fact, the Obama administration itself has concluded that around 50 Guantánamo detainees will be held indefinitely without trial. America does not need a verdict from a New York jury—and a mixed verdict at that—to justify Ghailani's continued detention.

The Obama administration, moreover, was never going to set Ghailani free—even if he was acquitted on *all* of the charges. Holder was asked about such a nightmare scenario by Senator Lindsey Graham during a Senate Judiciary Committee hearing on November 18, 2009. Graham's questioning dealt primarily with 9/11 mastermind Khalid Sheikh Mohammed and his co-conspirators, whom the Obama administration has also said it wants to try in a U.S. federal court. But the senator's line of questioning applies equally to Ghailani and other top al Qaeda operatives: "[Y]ou're not suggesting if, by some one-in-a-million fluke, one of these defendants were acquitted or given a short sentence, that they would be released anywhere, are you?" Graham asked.

NEWSCOM

"No," Holder responded. And the attorney general explained: "I certainly think that under the regime that we are contemplating, the potential for detaining people under the laws of war, we would retain that ability."

In other words, regardless of the trial's outcome, Ghailani wasn't going to be set free. His career as an al Qaeda terrorist, and the threat that he posed to the security of the United States and the world, came to an end when he was captured in 2004.

So how, then, did Ghailani's trial uphold the "rule of law" or make America "safer and stronger"?

It didn't. If anything, the jury's verdict failed to hold Ghailani truly accountable for the terror he unleashed. Ahmed Ghailani is obviously guilty of mass murder.

According to published reports, prosecutors introduced all of the following pieces of evidence at trial: Ghailani and another al Qaeda operative purchased the truck that was used in the suicide bombing in Tanzania. Ghailani purchased the oxygen and acetylene gas tanks that al Qaeda used to magnify the truck's explosion. Ghailani gave one of the suicide bombers a cell phone that he used

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repeatedly in the hours before the attack. The FBI found a detonator, exactly like those used in the bombings, in Ghailani's home. The FBI also found, according to CBS News, articles of clothing "tainted with TNT residue." The government called multiple witnesses who placed Ghailani in the company of the al Qaeda cells that executed the attacks. Using an alias and fake passport, Ghailani flew from Tanzania to Karachi, Pakistan, the night before the embassy bombings. Several other al Qaeda operatives who were involved in the attacks accompanied Ghailani on the flight.

All of this was presented to the jurors. But they could still only reach a compromised verdict. And it is a completely unsatisfactory and illogical verdict at that.

The whole point of al Qaeda's terrorism, after all, is not just to blow up government buildings. It is to kill as many civilians as possible. In this regard, the 1998 embassy bombings were al Qaeda's most devastating attack prior to September 11, 2001. But now, according to a U.S. federal court, Ahmed Ghailani merely conspired to blow up two embassy buildings, and was "not guilty" of conspiring to murder the innocent men and women who worked inside them.

Thus, the jury failed to hold Ghailani accountable for the evil he and al Qaeda perpetrated. And the Obama administration's trial, with its farcical outcome, did nothing to bring Ahmed Ghailani to justice.

—Thomas Joscelyn

Change We Can Believe In

Technically speaking, the National Commission on Fiscal Responsibility and Reform seems headed toward failure. The commission, chaired by Democrat Erskine Bowles and Republican Alan Simpson, is required to produce a report by December 1 providing recommendations for reducing the deficit and debt. To be adopted as a recommendation of the commission, a proposal must win the votes of 14 of the body's 18 members. It now looks increasingly unlikely that any proposal will reach that threshold.

But, in an effort to avoid simply declaring defeat, a number of members have offered their own ideas in recent weeks. And several of these ideas have been quite promising.

On November 10, the two co-chairmen released a comprehensive proposal that would significantly reduce the deficit and debt. Although it suffered from some major flaws—most notably a failure to deal with health care costs, an excessive overall tax burden, and badly misguided cuts in the defense budget—the Bowles-Simpson proposal offered many good and bold ideas, including sensible reforms of Social Security, cuts to discretionary spending, and improvements of the tax code. The chairmen's draft could serve as a plausible starting position for the Obama administration in negotiations with Republicans, from which the president would need to move rightward on some key issues.

Even more significant, however, was a proposal released last week by Alice Rivlin, a Democrat and former budget director under Bill Clinton, and Rep. Paul Ryan of Wisconsin, the next chairman of the House Budget Committee. Rivlin and Ryan took up the subject on which the chairmen punted—our exploding health care entitlements.

Their proposal is extraordinarily bold and well-crafted. Rivlin and Ryan would leave the benefits of today's retirees and near-retirees alone. But for people who are now 55 and younger, Rivlin and Ryan would transform Medicare from a program that directly pays for care in an open-ended way to one that provides retirees with money to buy private health insurance on their own. The amount provided would be based on "average annual per capita expenditures in 2021." It would grow much more slowly than Medicare spending grows today. And it would be adjusted by income, geography, and health risks—so that those who need more help can get it. The poorest seniors would also get additional help to pay out-of-pocket costs.

Meanwhile, starting in 2013, Rivlin and Ryan would transform the federal share of the Medicaid program into a block grant to the states—the amount of which would be determined by each state's poor population, and again would grow much more slowly than Medicaid spending has been growing lately.

These two changes would transform our massive, open-ended health care entitlements into powerful means of cost containment, while allowing individuals more control over their coverage and care, and giving states more say over their budgets. In one fell swoop, the Rivlin-Ryan proposals would turn Medicare and Medicaid from a major source of the problem into the beginning of a solution to our debt crisis.

And they would also do what Obamacare completely fails to do: reduce health care costs and, as the wonks put it, actually "bend the cost curve downward." The Congressional Budget Office reports that, in its first ten years (that is, before the Medicare reform even begins), the Rivlin-Ryan proposal would reduce the deficit by more than a quarter of a trillion dollars. And once

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the reforms are fully in place, the savings would be immense. By 2050, according to the CBO, federal health care entitlements would account for only 10 percent of GDP, rather than the nearly 14 percent projected under today's policies.

The Rivlin-Ryan plan, moreover, explicitly proposes to repeal one of the more costly elements of Obamacare—a new long-term care entitlement. Even more important, it implicitly offers an excellent alternative to the entire approach of the Democratic health care law. The model Rivlin-Ryan propose for Medicare—a means-tested, predefined subsidy for the purchase of private insurance—ought to be the basis for a broader reform that replaces Obamacare and transforms today's tax exclusion for employer-based coverage into a tax credit for health insurance for all (as, indeed, Rep. Ryan has proposed to do).

The Rivlin-Ryan model is what a sustainable, rational safety net looks like, and is just the kind of sober and creative solution to our fiscal crisis that voters were screaming for earlier this month. Let us hope that this bipartisan proposal is a sign of things to come.

—*Yuval Levin*

Democratic Tax Strategery

What will tax rates be in 2011? The current rates are set to expire at the end of this year, leading to increased taxes on income, capital gains, dividends, and estates. That would be an epic failure, since raising taxes in a weak recovery is the last thing policymakers ought to do. But Congress hasn't taken any action to stop the coming tax hike, preferring instead to devote its lame duck session to less pressing issues like the DREAM Act immigration amnesty and Don't Ask, Don't Tell. Pause and reflect for a moment on the absurdity that businesses, entrepreneurs, financial planners, tax preparers, and taxpayers have no certain idea of what they'll be expected to pay the IRS come January.

NEWSCOM

The Democrats, who have controlled Congress for four years and the White House for two, say they want to increase taxes only on households making more than $250,000 a year. Yet they've done nothing to make their preferred tax structure a reality. And indeed, many congressional Democrats agree with Republicans that *any* tax increase in 2011 would be bad for growth.

So what has the congressional leadership done? Rather than accept a bipartisan compromise to extend current tax rates for several years, Nancy Pelosi and Harry Reid have spent the last few weeks scheming to find a way to raise taxes on the wealthy while posturing as defenders of the middle class. We suppose we shouldn't be surprised that the harmful economic consequences of raising taxes on small businesses and investors are less important to the Democrats than old-school class politics. But it's disappointing nonetheless—especially in light of the fact that the donkeys have just suffered their biggest drubbing in a midterm election since 1938.

The latest Democratic strategy is to extend current middle class tax rates "permanently" while setting an expiration for upper-income rates, in order to set up a nasty fight somewhere down the line. But this is an empty gesture that smacks of desperation. Republicans in the House and Senate are standing firm against "decoupling," and it's likely that more than a few Democrats, senators from red states in particular, will stand with them. Which means that we're back where we started: an approaching tax increase, an ideological and unresponsive Democratic congressional leadership, and a weak and out-of-touch White House. No wonder Americans have little confidence in the economy. The same team that brought you Obamacare is on a course to produce, through its inaction, the largest tax increase in history.

The president's handling of this issue is particularly disappointing. Shortly after the election, the White House signaled that it would be open to cooperating with Republicans to keep taxes low. But the administration's conciliatory language was quickly drowned out by howls from the left. So once again President Obama has deferred to the left-of-center Democrats on Capitol Hill. Has he learned nothing?

Nor is the tax code the only instance in which the president's economic policies have been ineffective at best and counterproductive at worst. Not only do businesses face uncertainty on taxes, they don't know for sure how they'll be affected by Obamacare and the Dodd-Frank financial reform. On the global scene, meanwhile, the administration is playing beggar-thy-neighbor with the American dollar, contributing to uncertainty in currency markets and international trade. Someone needs to sit Obama down in front of the television and make him watch that episode of *Seinfeld* where Jerry tells George, "If every instinct you have is wrong, then the opposite would have to be right." Sage advice, Mr. President.

—*Matthew Continetti*

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R U Lovin' Sarah's Alaska?

From governor to TV star. BY MATT LABASH

The Palins: Track, Piper, Willow, Bristol, Sarah, Trig, Trip, and Todd

TLC / GILLES MINGASSON

Just how Sarah is *Sarah Palin's Alaska*, her new hit reality show on the TLC network? It's soooo flippin' Sarah, as Sarah would say. And it's soooo Alaska, which Palin pronounces "A-LASK-ahhhh." She repeats this on the show over and over again, as though we might forget where she's from otherwise. She says it in that chirpy honk that, to her legions of fans, represents the music of Mom, apple pie, and flyover country. To her legions of enemies, it is the sound of gum smacking and syntax breaking. As Palin intones in the show's opening, "A-LASK-ahhhh—I love this state like I love my family." Except that she didn't give her family up after governing it for two-and-a-half years, so that she could get a Fox News contract, and make 100 grand per speech, and write two books in a year, and drag her entire family onto a tacky reality show.

But see, that's a media meme, used by the kind of annoying people who use words like "meme." It's a cheap shot that's symptomatic of the shoddy cynicism that suffuses the Beltway elites and does not embody the spirit of Alaska, or the spirit of Sarah. Because what the "lamestream meee-deee-uhhh" (as Sarah calls them so often that she's abbreviated it on her Twitter feed to "LSM") doesn't get is that when you love somebody, even if that somebody is the state of Alaska, you set them free. Sting sang that. He's a really smart guy, even though he's not from Alaska. So Palin will probably end up tweeting him, just like she perpetually retweets the wisdom of her other intellectual influences like the Constitution, Tito the Builder, and Ronald Reagan, who said, "There r no easy answers, but there r simple answers." Except that the Great Communicator couldn't communicate through Twitter, so that unlike Sarah, he actually had to use "are." (Thank God those days r over.)

But back to Alaska, since that's what this is about. It's hard to tell sometimes where Sarah ends and Alaska begins. The Last Frontier of Alaska is as wild and untamed as Sarah Palin's ambitions. So it makes sense that Sarah loves Alaska, because loving Alaska is like loving herself. And that's what *Sarah Palin's Alaska* is really about: self-love.

It's also about reality, though Palin rejects the reality-show label, considering it more of a travelogue/love letter to Alaska. And she's correct that it bucks many reality-show conven-

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tions. Though I've only screened two of the eight episodes, there are, sadly, no hot tub make-out sessions. There are no drunken fistfights. Husband Todd does not walk around in the requisite Ed Hardy T-shirt, and no back tattoos are evident.

And though the show is produced by *Survivor*'s Mark Burnett, giving it a slick upmarket feel, little 9-year-old Piper is not voted off the island, though perhaps she should be for double-dipping a beater in a bowl after licking cupcake batter from it. She also precociously calls her mother "Sarah" when trying to get her attention—no easy feat, as Piper relates, since Mom is constantly on her BlackBerry, issuing Facebook and Twitter edicts, lamestream-media beat-downs, and editorial reprimands such as, "Press: why use this Bachmann pic in LEADERSHIP story? Ur 2 transparent." (While many suspect Palin wants to be president of the United States, she writes as though she just wants to be president of Brent Bozell's Media Research Center.)

On the other hand, her show is very similar to other reality-television fare, in that there are plenty of artificially constructed moments. The eldest Palin daughter—*Dancing with the Stars* contestant Bristol—is taken to a shooting range so that Sarah can "remind Bristol what it's like to pull the trigger." But it's fairly obvious when Bristol asks if the recoil is going to hurt and mistakes a clay pigeon for a mosquito that the reason she needs "reminding" is because she's rarely if ever pulled a trigger at all. Likewise, there are gobs of forced dialogue in order to set up Palin's bumper-sticker lines (she tells Bristol, with the subtlety of a skywriter, "Don't retreat, just reload"). She also repeatedly makes unlikely pronouncements, such as that Denali National Park is 9,400 square miles while New Hampshire is only 9,200 square miles, sounding less like Sarah Barracuda than Sarah Wikipedia.

A future show will feature a guest appearance/camping expedition with TLC reality-show cousin Kate Gosselin, star of *Kate Plus Eight* and the *National Enquirer*, whose claim to fame is her fertility, her bitch-on-wheels temper, and a spectacularly ugly divorce. So one could see how Karl Rove, one of several conservative, non-lamestream media Palin critics who've reared their heads of late, has a point when suggesting that the American people might expect "a certain level of gravitas" in someone who's considering running for president, and that starring in your own reality show might not be the ticket.

After all, *Sarah Palin's Alaska* shares the network's schedule with shows like *Ton of Love* ("go inside the lives of three morbidly obese couples") and *The Man With Half a Body* ("meet . . . Kenny whose body ends at his waist and who walks on his hands"). Would John Adams feel comfortable exhibiting his children next to *Toddlers and Tiaras*, which follows families on their quest for "sparkly crowns, big titles, and lots of cash"? Would Abe Lincoln look diminished if he shared a marquee with *I Didn't Know I Was Pregnant*? Would William Jefferson Clinton feel at home next to *Sister Wives*, which explores "the complex daily life of a polygamist family"?

Okay, bad example on that last one. But Rove's point is taken, and Palin might do well to listen, since her negatives, in poll after poll, are higher than most other politicians', and since, as the *Daily Caller*'s Jon Ward just reported after speaking to nearly two dozen key Tea Party activists who universally adore her, even her own supporters have reservations about her becoming president.

Still, the show isn't about "gravitas," an elitist lamestreamer word, much like "meme." Rather, it's about freedom. Because as Sarah says in the show, she'd rather be free than in some "stuffy old political office." Part of her appeal is that she has always been a Real Person, not some jive politician. And Real People detest politics, which she proved by barnstorming the country for months, endorsing 64 different politicians in front of Real People. Besides, she just left political office, why would she want to sit in some different stuffy ol' political office? Unless it was the Oval Office. I think even she'd have to admit that that would be pretty flippin' cool.

Gravitas, it's safe to say, is the enemy of freedom. And freedom is about motion—being in it, staying in it. On the show, this involves seein', and doin', and experiencin' things that don't require a "g" on the end of them, such as shootin', and rock climbin', and snow machinin', and clubbin' halibut over the head ("let me see the club, you look crazy," says Bristol to her mom when they do the deed on a commercial fishing boat) and media-critiquin' and BlackBerryin', which Palin gets caught doing even in the midst of wilderness adventures.

The premiere episode's big set piece involves a salmon fishing expedition in which the Palins pack into a boat, looking like tourists in bulky life-jackets while holding their spinning rods (any serious recreational fisherman would carry a fly rod, though that might be my fishing elitism talking). Just as wherever there are cameras, there are Palins—in addition to her *Dancing with the Stars* chores, Bristol just cut an abstinence/safe-sex public service announcement with renowned meathead The Situation, from MTV's *Jersey Shore*—wherever there are salmon, bears will be found. As two bears fight some 30 yards away from the Palins' boat, it's a nice break for Palin, so that she can shoehorn as many "Mama Grizzly" references into the conversation as possible while oohing and ahhing at the bears, thus helpfully reminding us of the symbolism.

When the Palins return home by float plane (all but Todd get skunked in a river so thick with salmon you could practically have walked over them), they are disturbed by the sight of Joe McGinniss, the invasive author who decided to report out his biography of Palin by renting the house next to them for the summer. Sarah says that her husband and his buddies built a 14-foot-privacy fence, much like we "need to do to secure our nation's border."

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Other than a few forced goofball throwaways, such as the one above, the show rarely becomes overtly political. But with the introduction of McGinniss, who rightly serves as the heavy, one is reminded of Palin's singular talent as a politician. It is why, in addition to her personal magnetism and charisma and ability to rile up often inchoate populist ire, she appeals to such a large swath of conservatives. And the reason is that no matter how annoying Palin is—no matter how jingoistic, no matter how shameless a headline-hunter, no matter how likely to sound like a 15-year-old Twitter-head ("SWEET diversion from politics! Dancing W/The Stars party in r livingroom tonight w/friends who r lovin' this change of pace 4 Sweet Bristol!")—she still manages to elicit often irrational hatred from politically motivated enemies who are even more annoying than she is.

Only the hardest of hard-bitten cynics wouldn't feel sympathy for Palin when Andrew Sullivan advances conspiracy theories that she is not the biological mother of Trig. Or when a noxious gasbag like Joy Behar expresses surprise that Palin's book is a success since most of her base "doesn't even read." Or when a creepy finger-sniffer like McGinniss moves into a house next door to play Peeping Tom into her family sanctum, then publicly complains that he wants to be edited out of her show.

As Palin spies McGinniss next door upon the family's return, she mutters that their activities are none of "his flippin' business," frets whether he's taking pictures, mischievously conspires with Piper as to whether the girl should wave, and finally high-fives her daughter, congratulating Piper that they had had a good day on the water while he was "stuck inside writing an ugly book." It's a sweet little moment. But one that rings totally false.

For while Palin's love and affection for her children are obvious, the reality-show cameras to which she's sounding off about the invasion of privacy would seem to be more of a privacy invasion than anything McGinniss could concoct. Whatever her motivations are in doing such a thing—and only she knows them—the most judged woman in the world has now given America a ringside seat to judge the inner workings of her family as well. And judge they do.

After seeing a preview, I watched the season-opener again when the show premiered last Sunday. This time, while clocking real-time reaction to it on Twitter—the forum that has amplified Palin's voice exponentially as she wages a one-woman guerrilla media campaign that seems to commandeer every other news cycle.

Spinners? Fly rods, folks—fly rods.

TLC / GILLES MINGASSON

The show broke TLC ratings records, pulling in 5 million viewers. A good many of those are doubtless Palin's devoted fans. But Twitter reaction was running about 10-to-1 against her, as the online hyenas circled, then savaged Palin and her family. They reamed 9-year-old Piper for disturbing wildlife with "racist anti-bear calls." They mocked Willow when a boy snuck upstairs as Palin busied herself on her BlackBerry. They came up with baby names for any forthcoming Palin children: Snausages, Musket, Hugh Betcha, Pander, and Mooseknuckle.

Does any of this matter to Palin? Probably not. She must be used to it by now. But her family is not acclimating so seamlessly to their new reality-television roles. Her daughters, just a few days ago, got in a widely reported Facebook scrape, with Willow electing to defend the family honor when the show was trashed by an old classmate for "failing so hard." Willow, in turn, invited him to "stfu, Your [sic] such a faggot." Willow has a lot of growing up to do. Literally—she's only 16, and what 16-year-old would want those growing pains played out in public? Yet as Palin recently tweeted, citing Bristol's response when asked if she was ready to face the pressure-cooker of *Dancing with the Stars*, "No matter [what] I do, they're going to criticize, so I might as well DANCE!"

On *Sarah Palin's Alaska*, shortly after she does a shot with Bill O'Reilly from the television studio that she's had built into her house, Palin confides to the reality-show camera, in a rare moment of genuine self-reflection, "You know, having every word, every action scrutinized and in some cases mocked, I can handle it, you know. I kind of have asked for it, right?"

One could make a case.

But this doesn't mean Palin won't continue to express her thoughts. In fact, when surveying the two-year output of her books and tweetings and Facebook updates and speeches and television spots and reality-show utterances, where every minute issue of the day is remarked upon, every slight noticed, every petty retribution repaid, it's hard to imagine she still has any thoughts that remain unexpressed.

But that's what going rogue is all about. Letting it fly. Following your gut. Which has made Sarah Palin wealthy, and intensely discussed, and now has secured her a spot in the Reality TV Star pantheon. And good for Palin if she's happy following her gut.

Though there's no compelling reason to suggest the rest of us should tag along behind. ♦

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The incoming members gather for breakfast before orientation on Capitol Hill, November 15.

AP PHOTO / HARRY HAMBURG

Rites of Initiation

Will the freshman Republicans earn 'strange new respect'? BY FRED BARNES

The newly elected House Republicans, that hardy band of conservatives, are in for a rude surprise. But not yet. The press and other branches of the Washington establishment will treat them as refreshing idealists for a few more weeks. But early next year, the tone will change and the Republican newcomers will learn that Washington doesn't like them at all.

They'll notice the change because the positive feedback will abruptly turn negative. They'll be cast as conservative ideologues keen on turning back the clock, aiding the rich, hurting the poor, and much worse. The same story unfolded after Republican landslides in 1946 and 1994.

It's quite tolerable in Washington to talk a conservative game, as the new Republicans do so well. But to play a conservative game, to enact conservative policies—that's different. That's serious, and it's no secret how Washington will react. The welcome mat will be pulled away. The press will begin roughing up the newcomers. And the establishment—the permanent bureaucracy, lobbyists, consultants, leftovers from earlier administrations and long-forgotten sessions of Congress, flacks, policy entrepreneurs—will loudly express its disapproval.

Washington is a liberal town or, if you wish, a center-left town. It's been that way since the 1930s. It treats conservatives, which means most Republicans, like kids. They are to be seen, sometimes heard, and always opposed when they try to put their plans into practice.

Over the decades, Washington has perfected the seduction of conservative Republicans. It doesn't involve money, gifts, or free lunches. It relies on the strong undertow in Washington that tugs politicians to the left. When a conservative succumbs, he or she is granted "strange new respect," as conservative writer Tom Bethell dubbed the phenomenon. With it come prestige and acceptance in Washington's eyes. This can be intoxicating.

The *American Spectator* magazine takes note each year of a prominent migrant from right to left. In 2009, it designated Senator Lindsey Graham of South Carolina as winner of the Strange New Respect Award. Prior winners: John McCain, Alan Simpson. The award, just to be clear, is not a compliment.

It will be easy for members of the Republican class of 2010 to win the award. The simplest way is to vote against conservative bills. A surefire approach is to submit to the *Washington Post* or *New York Times* an article criticizing other members of the 2010 class as too conservative. Chances are, it will appear on the op-ed page the next day.

Those who don't drift to the left are relegated to a life of being dissed in Washington. The more they stick to their conservative guns, especially on social issues, the more they'll be criticized. Proof of this? Check out the way Washington regards Senator Jim DeMint of South Carolina and Representative Michele Bachmann of Minnesota.

Washington is reactionary. It dislikes change, except for the more-of-the-same type championed by President Obama. Conservative change aimed at smaller government, less spending, and reduced power to Washington—forget it. Conservatives who support that sort of change will be hammered.

The agenda of the 2010 freshmen is directly at odds with what Washington worships: big government. It's the mother's milk of prosperity and pride in the capital. The bigger the federal government, the more discretionary power in the hands of Washington officialdom, the higher the self-esteem of the entire town. Also, the more lobbyists.

Washington has a set of attitudes bound to set a zealous Republican's

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teeth on edge. For instance, since Washington believes it knows best, the old hands in town figure the new members of Congress should reach out to them for advice. This won't happen. If conservatives seek expertise, they're likely to go to conservative think tanks like Heritage, Cato, and the American Enterprise Institute.

As silly as it sounds, Washington social life is important to the political class. If the new arrivals don't take part, and they won't, their disrespect will be noticed. Republicans, for the most part, don't uproot their families and move them to Washington. Instead, they go home on weekends to see them, skipping social events in Washington.

Then there's Washington's deep resentment over attacks on the town. These are a staple of Republican campaigns and many Democratic campaigns as well. The rub is that conservatives actually believe what they say. The Washington crowd, including the press, assumes they must know better. At least the Republicans could wink to indicate they do. I suspect few will.

The 2010 Republicans have encountered a Washington with one saving grace. Republicans and conservatives now have an infrastructure all their own: newspapers, think tanks, social groups, churches, and plenty of their brethren who came to town and stayed. It's an alternative to the dominance of liberal institutions, a subculture.

Sean Duffy, a new House member from Wisconsin, forced the chairman of the appropriations committee, David Obey, to retire (or lose), then won Obey's open seat. Last week, Duffy wrote in *Politico* that he and the 80-plus members of his Republican class "are ready to change the way Washington does business."

This is a pipedream. Members of Congress come and go, but the way Washington works has been entrenched for decades. It won't change, even if earmarks are banned. But if Republicans are unwilling to embrace Washington as it is, there's another option. They can beat it. Ronald Reagan did. ♦

Black and White and Red All Over

The 'New York Times' can't handle the truth.

BY HARVEY KLEHR & JOHN EARL HAYNES

The *New York Times* may be the paper of record, but its record leaves much to be desired when the issue is Soviet espionage in the United States. Where the *Times* is not obscuring the historical record, it is willfully obtuse. Consider Charles Isherwood's recent review of the newly opened play *After the Revolution*. The glowing notice is indeed merited. The cast is superb, and playwright Amy Herzog has written a witty, morally complicated, and engrossing drama about the turmoil that engulfs a radical family when details emerge about their deceased patriarch's role as a Soviet spy during World War II.

But the review also highlights the problems that continue to afflict the *Times* when the subject turns to the Soviet Union's American spies. For instance, Isherwood speculates that "the play seems partly inspired by the recent revelations about Julius Rosenberg, whose culpability had been debated since his execution for spying, along with his wife Ethel, in 1953." *Debated?* Julius Rosenberg's guilt has long been established: He and Ethel were convicted in a court of law in 1951, and the evidence has been thoroughly documented. Among other publications detailing the proof are: *The Rosenberg File* (1983) by Ronald Radosh and Joyce Milton; the 1995 release of the National Security Agency's decryptions of World War II Soviet KGB cables (21 of which report on Julius's espionage); the 2001 autobiography of Alexander Feklisov, Rosenberg's KGB controller; and Steven Usdin's *Engineering Communism* (2005), which laid out the enormous extent of the Rosenberg ring's espionage in the field of military technology. There are no more lingering doubts about the Rosenbergs' "culpability"—except in the precincts inhabited by the employees of the *New York Times*.

The *Times*, it seems, has made a long-term investment in historical revisionism. Just last month the paper devoted a lengthy review to a new book by two veteran defenders of the Rosenbergs, Walter and Miriam Schneir. Their magnum opus, *Invitation to an Inquest*, published in 1965 and updated in 1983, argued that the Rosenbergs had not been spies at all, that the chief witnesses against them, Harry Gold and David Greenglass, were fantasists, and that the whole case was simply a government plot to demonize and persecute the American left. The Schneirs' new book, *Final Verdict: What Really Happened in the Rosenberg Case*, uses no new archival sources, contains only a smattering of footnotes, and ignores copious documentation, but does at least have the merit of acknowledging that their earlier thesis was false. No big deal, they defiantly write, "no apologies, no regrets": Now they admit that Julius Rosenberg was a Soviet spy, but an inconsequential one who had very little to do with atomic espionage. The *Times*'s review concluded that the Schneirs' new thesis, despite their tainted history as interpreters of the Rosenberg case, is plausible.

The paper not only continues to ignore the facts about the Rosenbergs, but also avoids the more general ques-

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tion concerning the role American Communists played in Soviet espionage. When our first book on the topic, *The Secret World of American Communism*, came out in 1995, the *Times* at first ignored it, even with revelations taken from previously sealed Russian archives that demonstrated widespread cooperation between the Communist Party of the United States and the KGB. It was Hilton Kramer's series of articles for the *New York Post* chiding the paper for its lack of coverage that apparently prompted the *Times* to include our book in a joint review.

The appearance of the deciphered KGB cables of the Venona project in 1995 unnerved the *Times*. Although the paper published a lengthy article in the "Week In Review" section about the scholarly brouhahas it had stirred up, the topic clearly made its editorial board uncomfortable. In a lead editorial on October 23, 1998, the *Times* smeared unnamed scholars "armed with audacity and new archival information" who were using "opaque and ambiguous" documents to "rewrite the historical verdict" that McCarthyism was a graver danger to American democracy than Communist subversion and Soviet espionage, which, the editors allowed, was greater than previously realized. Although none of the scholars that the *Times* refrained from naming—ourselves and Ronald Radosh—who so exercised the editorial writers had ever expressed any sympathy for Senator Joseph McCarthy and had explicitly stated that the new evidence did not vindicate his actions, mere mention of his name was intended to reassure readers that they had no reason to rethink old shibboleths about all those accused of espionage as innocent victims of a paranoid political era.

Hence, it is no surprise that the *Times*'s critic misses the main point of *After the Revolution*. It was not, as Isherwood writes, inspired by the Rosenberg case, but rather by events touched off with the 1999 publication of our book *Venona: Decoding Soviet Espionage in America*. The family dispute erupts when a "friend at Yale Press" (which published our book) informs a member of the family that a forthcoming title will name Joe Joseph as a Soviet spy. Playwright Amy Herzog confirmed to us that her father's stepfather was Julius Joseph, identified in our book as a Soviet spy.

In the play, Joe's granddaughter Emma is horrified to learn that the man whom she was raised to idolize as a principled and honest radical actually betrayed his country. She is even more disconcerted because as a recently minted lawyer, she has founded and heads a legal defense fund named for him that is devoted to defending political prisoners, most notably the convicted cop-killer Mumia Abu-Jamal. Her subsequent conflicts with her family members and boyfriend over whether she should close down the fund and return its donors' money is the result of her shock at learning that the political legends that had fed her youth were lies.

And how does Isherwood deal with this dilemma? In the only critical comment he makes about the play, he complains that Emma's "unbending rectitude" stalls the action as she engages in a "long temper tantrum, ignoring the pressing needs of the fund." In other words, the question of whether Mumia is as guilty as her grandfather is a distraction from the real concern, which, according to Isherwood, is "the atmosphere of fear that pervaded liberal circles during the witch-hunt years."

Amy Herzog and her play, which grapples seriously with the ethical issues raised by her grandfather's espionage, deserve better. So does the historical record. ♦

Campaign Finance Myths

Lots of untruths are being spread by the president.

BY WILLIAM R. MAURER

Since the Supreme Court ruled in *Citizens United* v. *FEC* last January, politicians have vied to see who could speak of the decision with the most vitriol. President Obama said he could not "think of anything more devastating to the public interest" and criticized the ruling in his State of the Union address with members of the Court present. Senator Al Franken called it "an incredible act of judicial activism," while Representative Peter DeFazio is "investigating" whether Chief Justice John Roberts should be impeached.

Politicians were not the only ones to denounce *Citizens United*. Numerous commentators likened it to *Dred Scott*, and a *Huffington Post* writer even compared the five justices in the majority to concentration camp prisoners who cooperated with the Nazis.

We can expect the rhetoric only to get worse after the recent elections, where Democrats believe they lost a significant number of seats because of "corporate spending" unleashed by *Citizens United*.

Unhinged rhetoric aside, however, the critics of the decision almost always get their history wrong, have a selective view of Supreme Court precedent, and fundamentally misread the First Amendment. Read correctly, *Citizens United* represents a necessary correction to a fairly recent anti-free speech trend in the Court's jurisprudence and is consistent with both the words and intent of the First Amendment.

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Notably absent from many criticisms of the decision is any discussion of what the case was actually about. *Citizens United* concerned a statute that made it a crime for corporations and unions to use general treasury money to make "independent expenditures" (that is, not coordinated with candidates) that expressly advocated the election or defeat of a federal candidate. Prior to *Citizens United*, corporations and unions could participate in the political process only by creating separate political action committees. PACs operate under complex and expensive administrative requirements, however, and cannot use general treasury funds for political purposes, so few corporations availed themselves of this alternative.

Citizens United is a nonprofit corporation that wished to use its general treasury funds to distribute a film about Hillary Clinton via video-on-demand when she ran for president. Under federal law, however, the film was banned. Citizens United sued the Federal Election Commission to enjoin the law's application. The group lost at the trial court and then sought review at the U.S. Supreme Court.

In January 2010, a five-justice majority struck down the restriction. The Court stated unequivocally that the First Amendment restricts the ability of the government to abridge the freedom of speech of corporations, especially through an outright ban on speech. The Court overturned two relatively recent decisions, *Austin* v. *Michigan Chamber of Commerce* from 1990 and portions of *McConnell* v. *FEC* from 2003, which held that the government may ban the independent expenditures of corporate and union entities.

Criticism from proregulation politicians and campaign finance "reformers" was immediate. It typically employs variations on three arguments: (1) *Citizens United* overturned 100 years of law prohibiting corporations from spending money in elections, (2) the settled view prior to *Citizens United* was that bans on corporate and union political activity were constitutional, and (3) *Citizens United* extended free speech protections to corporations, whereas only individuals are entitled to free speech under the First Amendment.

None of these statements is true. They are, instead, myths used to justify a law that made it a crime to publish a book or pamphlet or pay for a yard sign. In other words, they are simply ways to avoid stating plainly that opponents of *Citizens United* believe the government can constitutionally put people in prison for publishing a book or distributing a movie.

Myth 1: 'Citizens United' overturned 100 years of law prohibiting corporations from spending money in elections.

President Obama has been the most notable proponent of this myth. In the State of the Union he said that *Citizens United* "reversed a century of law that I believe will open the floodgates for special interests . . . to spend without limit

Go Back Two Spaces

By Thomas J. Donohue
President and CEO
U.S. Chamber of Commerce

To get your point across, sometimes you have to adopt an unconventional approach. That's what the U.S. Chamber is doing with its new board game called *This Way To Jobs*.

This innovative product highlights the regulatory hurdles that American businesses face every day. Players represent business owners who must navigate their way through a difficult road of regulations to reach the finish line, Prosperity Park. Much like the unfortunate reality facing America's job creators, however, getting there is easier said than done. Players must overcome the regulatory traps and red tape that are slowing down our economy.

Here are some examples of game cards:

- This year, your business of 20 employees opts to take the small business tax credit for health insurance. In 2011, you hire 6 additional employees for a total of 26. Your business is no longer eligible for the tax credit as the credit is now phased out. *Move back 1 space.*
- An environmental group sues your proposed 3,200-cow dairy farm under a state National Environmental Policy Act regulation citing the cows' methane emissions for their contribution to climate change. G*o back 2 spaces.*

To make sure that the message gets through to our elected officials, the Chamber sent copies of *This Way To Jobs* to all 535 members of Congress and to the nation's governors. You can play at home by visiting www.ThisWayToJobs.com. But be forewarned. After a few spins of the wheel, you'll be frustrated in the same way that small businesses are by today's crushing regulatory environment.

Of course, our effort to stem the rising tide of government regulations isn't limited solely to this game. We're holding Congress' feet to the fire by insisting that it stop passing sweeping, sloppy, and vague bills that leave all the major decisions to unaccountable regulators. Our policy experts are deeply engaged in every step of the rulemaking process, taking advantage of every opportunity to curb the worst excesses of the new health care and financial reform laws. Our lawyers are prepared to challenge federal agencies in court if they overstep their bounds. And we plan to hire a regulatory economist to help us weigh the costs of regulations and their impact on job creation and economic growth.

We can't move the economy forward, create jobs, and end crippling uncertainty until we stem the rising tide of burdensome regulations. We're committed to using every means at our disposal to do so—even creating a board game to make our point.

U.S. Chamber of Commerce Comment at www.chamberpost.com.

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in our elections." In response, Justice Alito was seen shaking his head and mouthing the words "not true." Alito was right.

While federal law has indeed prohibited corporations from directly contributing to federal candidates since 1907, that portion of the law was not at issue in *Citizens United*. It remains the law of the land. Direct corporate contributions to candidates are still banned.

The restriction on corporate and union independent expenditures, moreover, had been around only since 1947. Although this is a pretty good vintage, it is not a century. And the Supreme Court had never ruled on the constitutionality of such a ban until 1990, when it decided *Austin*. In that case, the Court upheld Michigan's ban on independent expenditures by corporations and concluded that the government could make it a felony for a corporation to publish a book, pamphlet, or newspaper ad urging the election or defeat of a candidate.

The Court's reasoning in *Austin*, however, was simply bizarre. The Court held that because of the "corrosive and distorting effects of immense aggregations of wealth that are accumulated with the help of the corporate form and that have little or no correlation to the public's support for the corporation's political ideas," the government could effectively remove these entities from the political field. The reasoning in *Austin* was so amorphous and subjective, however, that by the time the Supreme Court heard arguments in *Citizens United*, the government had simply stopped relying on the decision.

President Obama's "century of law" thus referred to a 63-year-old law whose constitutional validity was determined 20 years ago in a case the reasoning of which even his own Justice Department rejected. Thus the president's statement that *Citizens United* "reversed a century of law" is not even remotely accurate.

Myth 2: Prior to 'Citizens United,' it was settled law that government bans on corporate and union independent expenditures were constitutional.

President Obama's statement also implies that the constitutionality of such a ban was well established. That is not true. The constitutionality of the ban on independent expenditures was disputed from its very inception, and it was only through convoluted efforts by the Supreme Court to avoid directly ruling on the issue that the law was able to survive for as long as it did.

During congressional debate over the law, labor union supporters, viewing the bill's ban on union expenditures as an attempt to drive them from politics, expressed concern about how the provision would affect labor newspapers. Echoing that concern, President Truman vetoed the bill and declared it "a dangerous intrusion on free speech, unwarranted by any demonstration of need, and quite foreign to the stated purpose of this bill." Congress overrode his veto. Nonetheless, after a string of setbacks in court, the Justice Department stopped prosecuting union political expenditures during the 1950s because it did not believe that a court would find the expenditure ban constitutional.

The law made its way to the Supreme Court in *U.S.* v. *Auto Workers* in 1957. Unfortunately, the Court's majority went out of its way to avoid reaching the issue of the law's constitutionality. Justice Douglas, joined by Chief Justice Warren and Justice Black, filed a dissent that argued that not only should the Court hear the case, it should strike down the ban as an obvious violation of the First Amendment:

> Some may think that one group or another should not express its views in an election because it is too powerful, because it advocates unpopular ideas, or because it has a record of lawless action. But these are not justifications for withholding First Amendment rights from any group—labor or corporate. First Amendment rights are part of the heritage of all persons and groups in this country. They are not to be dispensed with or withheld because we or Congress thinks the person or group is worthy or unworthy.

Justice Douglas concluded by calling the ban "a broadside assault on the freedom of political expression guaranteed by the First Amendment." Likewise, the majority opinions in *Austin* and *McConnell* both attracted vigorous dissents from a number of justices.

In short, the idea that the government could ban independent expenditures by groups it did not like had been vigorously resisted since it was proposed. President Obama's "century of law" was far from settled.

Myth 3: Corporations cannot have free speech rights because the First Amendment protects only individuals.

In its criticism of *Citizens United*, the *New York Times* (ironically, a for-profit corporation that routinely uses its general treasury funds to advocate for the election or defeat of federal candidates) said the following: "Most wrongheaded of all is its insistence that corporations are just like people and entitled to the same First Amendment rights." Similarly, Representative Chris Van Hollen stated that *Citizens United* "is a decision that equates, for the purposes of expending monies in elections, says [sic] that corporations equal individuals. I think it is an un-American decision. . . . " Justice Stevens also accepted this argument in his dissent in *Citizens United*, arguing that the "speech" referred to in the First Amendment applies only to "oral communications by individuals," and that because corporations are "artificial entities," they "do not have the technical capacity to speak."

Of course, this conclusion ignores the actual words of the First Amendment. The First Amendment provides: "Congress shall make no law . . . abridging the freedom of speech." It does not say, "Congress shall make no law abridging the freedom of speech of individuals." It does not say, "Congress shall make no law abridging freedom of speech, except for two or more people."

To paraphrase Hugo Black, "No law" means "no law." Put simply, the First Amendment is a restriction on government power. The First Amendment restricts the ability of government to restrict the rights listed in the amendment—it certainly does not create a

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limitation on those rights so that they apply only to individuals acting alone.

Taken to its logical conclusion, the belief that "only individuals have constitutional rights" would have serious consequences for the economic health of the nation. If only individuals are protected by the Bill of Rights, can the government seize Apple's intellectual property without paying for it, regardless of the Fifth Amendment? Can the government quarter troops at the AFL-CIO's headquarters, despite the Third Amendment? Can it search the ACLU's offices without a warrant because the Fourth Amendment does not apply?

Corporations and unions are not individuals, but they are made up of individuals who have banded together for common purposes. Marriages, partnerships, neighborhood organizations, and rock groups also are not individuals, but rather associations of individuals who have decided that acting cooperatively is more effective than acting alone. To hold that First Amendment rights dissipate the minute one person begins to act in concert with another would neuter the Bill of Rights as an effective check on unrestrained government power. As Chief Justice Roberts put it in his concurrence in *Citizens United*, "The First Amendment protects more than just the individual on a soapbox and the lonely pamphleteer."

It is clear that the attacks on the Court for the *Citizens United* decision rest on specious and factually dubious grounds. This latticework of myth is necessary to avoid the simple truth that the law at issue in *Citizens United* violated the First Amendment and gave the government unprecedented power to criminalize political activity. During oral argument, lawyers for the government argued that the law gave the government the ability to ban books, pamphlets, and political signs if they were produced by the wrong people using funds from the wrong source. It is inconceivable that a law passed by Congress that made it a felony to publish a book or pamphlet was not a law "abridging the freedom of speech."

No amount of myth can cover up that fact. ♦

Our New Obamacare Masters

Meet the Independent Payment Advisory Board.

BY WESLEY J. SMITH

The day after the Obama administration's shellacking at the polls, Peter Orszag, former director of the White House Office of Management and Budget, defended Obamacare from the ramparts of the *New York Times*. Dubiously asserting that the Patient Protection and Affordable Care Act is a money saver, Orszag extolled the establishment of an arcane new commission to oversee the Medicare budget:

> Perhaps most important, the legislation creates an Independent Payment Advisory Board, a panel of independent medical experts who will look for more ways to improve Medicare's cost-effectiveness. Under the law, any policy that the board issues takes effect unless legislation to block it is passed by Congress and signed by the president. This way, inertia works in favor of cost containment rather than against it.

In other words, the only way to stop the commission's fiscal "recommendations" from taking effect is for Congress to act. Talk about creating a new level of raw bureaucratic power.

Orszag was actually restrained in describing the depth of the Independent Payment Advisory Board's statutory authority. At present, Congress is responsible for setting the policies that govern all aspects of Medicare, including payments to health care providers and facilities. That arrangement is inevitably messy because the people have a strong say.

Wesley J. Smith is a senior fellow at the Discovery Institute's Center on Human Exceptionalism.

The creators of Obamacare saw the ability of constituents to influence their representatives as a problem. Saying, in effect, "Stop us before we spend again," Democrats transferred most of Congress and the president's policy-making authority to the 15 "expert" members of the Independent Payment Advisory Board, appointed by the president and confirmed by the Senate. If this board determines that the growth of Medicare costs will exceed a predetermined target, it has the power to enact a remedy through "fast track" legislation, which works like this:

- By January 15 each year, the Independent Payment Advisory Board must submit a proposal to Congress and the president for reaching Medicare savings targets in the coming year. The majority leaders in the House and Senate must introduce bills incorporating the board's proposal the day they receive it.
- Congress cannot "consider any bill, resolution, amendment, or conference report … that would repeal or otherwise change the recommendations of the board" if such changes fail to meet the board's budgetary target.
- By April 1, the committees of jurisdiction must complete their consideration of the proposal. Any committee that fails to meet the deadline is barred from further considering the bill.
- The secretary of health and human services must implement the Independent Payment Advisory Board's proposal, as passed by Congress and signed by the president, on August 15 of the year in which the proposal is submitted.

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• If Congress does not pass the proposal or a substitute plan meeting the Independent Payment Advisory Board's financial target before August 15, or if the president vetoes the proposal passed by Congress, the original Independent Payment Advisory Board recommendations automatically take effect.

Further demonstrating the Star Chamber-like powers of the Independent Payment Advisory Board, Congress cannot consider any bill or amendment that would repeal or change this fast-track congressional consideration process without a three-fifths vote (60) in the Senate. Not only that, but the implementation of the board's remedy is exempted from administrative or judicial review.

Obamacare defenders claim that the iron fist of the Independent Payment Advisory Board is necessary to ensure cost containment, given Congress's spinelessness about controlling Medicare costs. They also note that the board does not have a completely free hand. For example, as it pursues its mission of frugality, it is not allowed to recommend health care rationing, changes in Medicare benefits, or revision of eligibility standards.

That is hardly reassuring. Legislators love to abdicate responsibility as a way of protecting their political behinds. If this transfer of limited authority to a faceless board goes down smoothly, what's to stop Congress from expanding the board's authority, allowing it to make more substantive changes in Medicare by bureaucratic fiat? Think of all the questions legislators could sidestep at town hall meetings by pointing an accusatory finger at the board!

Nor is there any reason to believe that the Independent Payment Advisory Board's undemocratic approach to governance would long remain limited to Medicare. If our controversy-averse elected officials ever think they can protect their jobs by delegating their most difficult decisions to unaccountable commissions—as Congress did with regard to setting its own salaries—independent "advisory" boards could proliferate. In this sense, the success of Medicare's new cost-containment board could portend the construction of an unaccountable bureaucratic state.

When the Founding Fathers wrote the Constitution, they did not envisage governance by "we the experts." Regardless of where one stands on the wisdom of Obamacare generally, the unaccountable power of the Independent Payment Advisory Board as a mini-government within a government needs to be revoked by the new Congress, and if that proves undoable, its organization and staffing should be defunded. ♦

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Give States a Way to Go Bankrupt

It's the best option for avoiding a massive federal bailout

By David Skeel

Anyone who proposed even a decade ago that a state should be permitted to file for bankruptcy would have been dismissed as crazy. But times have changed. As Arnold Schwarzenegger's plea for $7 billion of federal assistance for California earlier this year made clear, the states are the next frontier in "too big to fail." In the topsy-turvy world we now inhabit, letting states file for bankruptcy to shed some of their obligations could save American taxpayers a great deal of money.

The financial mess that spendthrift states have gotten themselves into is well known. California—recently dubbed the "Lindsay Lohan of states" in the *Wall Street Journal*—has a deficit that could reach $25.4 billion next year, and Illinois's deficit for the 2011 fiscal year may be in the neighborhood of $15 billion. There is little evidence that either state has a recipe for bringing down its runaway expenses, a large portion of which are wages and benefits owed to public employees. This means we can expect a major push for federal funds to prop up insolvent state governments in 2011, unless some miraculous alternative emerges to save the day. This is where bankruptcy comes in.

When the possibility is mentioned of creating a new chapter for states in U.S. bankruptcy law (Chapter 8, perhaps, which isn't currently taken), most people have two reactions. First, that bankruptcy might be a great solution for exploding state debt; and second, that it can't possibly be constitutional for Congress to enact such a law. Surprisingly enough, this reaction is exactly backwards. The constitutionality of bankruptcy-for-states is beyond serious dispute. The real question is whether the benefits would be large enough to justify congressional action. The short answer is yes. Although bankruptcy would be an imperfect solution to out-of-control state deficits, it's the best option we have, at least if we want to have any chance of avoiding massive federal bailouts of state governments.

Start with the issue of constitutionality. The main objection to bankruptcy for states is that it would interfere with state sovereignty—the Constitution's protections against federal meddling in state affairs. The best known such barrier is the Tenth Amendment, but the structure of the Constitution as a whole is designed to give the states a great deal of independence. This concern is easily addressed. So long as a state can't be thrown into bankruptcy against its will, and bankruptcy doesn't usurp state lawmaking powers, bankruptcy-for-states can easily be squared with the Constitution. But the solution also creates a second concern. If the bankruptcy framework treads gingerly on state prerogatives, as it must to be constitutional, it may be exceedingly difficult for a bankruptcy court to impose the aggressive measures a state needs to get its fiscal house in order.

Neither of these considerations—state sovereignty or the limited force of a bankruptcy framework that gives wide berth to governmental decision-makers—is hypothetical. We now have more than 70 years of experience with a special chapter of the bankruptcy code—now called Chapter 9—which permits cities and other municipal entities to file for bankruptcy. For decades, this chapter did not get a great deal of use. But since the successful 1994 filing for bankruptcy by Orange County, California, after the county's bets on derivatives contracts went bad, municipal bankruptcy has become increasingly common. Vallejo, California, is currently in bankruptcy, and Harrisburg, Pennsylvania, is mulling it over. The experience of these municipal bankruptcies shows how bankruptcy-for-states might work, what its limitations are, and why we need it now.

Municipal bankruptcy dates back to the last epic financial crisis, the Great Depression of the 1930s. According to testimony in a 1934 congressional hearing, 2,019 cities and other governmental entities had defaulted on their debt at that time. Back then, the leading advocates of a bankruptcy option for local government were progressives, especially those whose cities were overwhelmed by debt.

David Skeel is a law professor at the University of Pennsylvania. His book The New Financial Deal: Understanding the Dodd-Frank Act and its (Unintended) Consequences *(Wiley) is due out in December.*

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In 1933, Detroit mayor and future Supreme Court justice Frank Murphy assured Congress that bankruptcy would be "an orderly and legal way" to assist "the people of these great urban centers that are now simply being crushed out of existence by taxes and by debts." The New Deal Congress obliged by enacting the first municipal bankruptcy law shortly thereafter.

As with much New Deal legislation, the early history of municipal bankruptcy law was rocky. The Supreme Court struck down the original law in 1936, concluding that it would infringe on state authority, even if the state vigorously welcomed the law. (One reason for rejecting municipal bankruptcy, according to Justice James Clark McReynolds, whose opinion was and is widely criticized but who was perhaps prescient, was that state bankruptcy might be next.) But two years later, after the famous "switch in time" from its earlier pattern of striking down New Deal legislation, the High Court gave its blessing to a 1937 version of the law. Congress's revisions to the municipal bankruptcy legislation were slight, but the Court was ready to uphold it. Because the law was "carefully drawn so as not to impinge upon the sovereignty of the State," the Court concluded, and made sure that the state "retains control of its fiscal affairs," it now passed constitutional muster.

With the presidential election just two years away, the pressure to bail out California, Illinois, and perhaps other states is about to become irresistible.

Municipal bankruptcy differs in a few key respects from the law applying to nongovernmental entities. Unlike with corporations, a city's creditors are not permitted to throw the city into bankruptcy. A law that allowed for involuntary bankruptcy could not be reconciled with anyone's interpretation of state sovereign immunity. A city must therefore avail itself of bankruptcy voluntarily; no one else, no matter how irate, can trigger a bankruptcy filing. And when municipalities do file for bankruptcy, the court is strictly forbidden from meddling with the reins of government. The current law explicitly affirms state authority over a municipality that is in bankruptcy and prohibits the bankruptcy court from interfering with any of the municipality's political or governmental powers. A court cannot force a bankrupt city to raise taxes or cut expenses, for instance. Such protections have long since quieted concerns that municipal bankruptcy intrudes on the rights of the states, and they would similarly assure the constitutionality of a bankruptcy chapter for states.

One can imagine other constitutional concerns coming into play. If a municipal or state bankruptcy law allowed the court to ignore the property interests of creditors who had been promised specific state tax revenues or had been given other collateral, it might violate the Takings Clause of the Fifth Amendment. But the current chapter for municipal bankruptcy respects these entitlements (as does current corporate bankruptcy), and a chapter for states could easily be structured to do the same.

In the decades since the constitutionality of municipal bankruptcy was affirmed by the Supreme Court, the most serious obstacle in practice has been the rule that only insolvent municipalities can file for bankruptcy. Because a struggling city theoretically can raise taxes or slash programs, it often isn't clear if even the most bedraggled city needs to be in bankruptcy. In 1991, a court concluded that Bridgeport, Connecticut—which wasn't anyone's idea of a healthy city—had not demonstrated that it was insolvent, and rejected Bridgeport's bankruptcy filing. To avoid this risk, without making bankruptcy too easy for states, Congress would do well to consider a somewhat softer entrance requirement if it enacts bankruptcy-for-states legislation. Current corporate bankruptcy does not require a showing of insolvency, and the new financial reforms allow regulators to take over large banks that are "in default or in danger of default." Although these reforms are in other ways deeply flawed, the "in default or danger of default" standard would work well for states.

Given that a new bankruptcy chapter for states would clearly be constitutional, and the entrance hurdles could easily be adjusted, the ultimate question is whether its benefits would be great enough to justify the innovation. They would, although a bankruptcy chapter for states would not be nearly so smooth as an ordinary corporate reorganization. When a business files for bankruptcy, the threat to liquidate the company's assets—that is, to simply sell everything in pieces and shut the business down—has the same effect on creditors that Samuel Johnson attributed to the hangman's noose: It concentrates the mind wonderfully. Because creditors are likely to be worse off if the company is simply liquidated, they tend to be more flexible, and more willing to renegotiate what they are owed.

One can imagine something like a liquidation sale for cities and even states. Indeed, in the early 1990s, professors Michael McConnell and Randal Picker proposed that Congress amend the existing municipal bankruptcy chapter to allow just that. They argued that many of a city's commercial, nongovernmental properties could be sold in a municipal bankruptcy, and the proceeds simply distributed to creditors. (They also suggested that municipal boundaries could

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be dissolved, with a bankrupt city being absorbed by the surrounding county.) Although California has taken small steps in this direction on its own—it recently contracted to sell the San Francisco Civic Center and other public buildings to a Texas investment company for $2.33 billion—it seems unlikely that Congress would give bankruptcy judges the power to compel sales in bankruptcy. Nor could it do so with respect to any property that serves a public purpose. Liquidation simply isn't a realistic option for a city or state. (The same limitation applies to nation-states like Ireland and Greece, whose financial travails have reinvigorated debate about whether there should be a bankruptcy-like international framework for countries.)

With liquidation off the table, the effectiveness of state bankruptcy would depend a great deal on the state's willingness to play hardball with its creditors. The principal candidates for restructuring in states like California or Illinois are the state's bonds and its contracts with public employees. Ideally, bondholders would vote to approve a restructuring. But if they dug in their heels and resisted proposals to restructure their debt, a bankruptcy chapter for states should allow (as municipal bankruptcy already does) for a proposal to be "crammed down" over their objections under certain circumstances. This eliminates the hold-out problem—the refusal of a minority of bondholders to agree to the terms of a restructuring—that can foil efforts to restructure outside of bankruptcy.

The bankruptcy law should give debtor states even more power to rewrite union contracts, if the court approves. Interestingly, it is easier to renegotiate a burdensome union contract in municipal bankruptcy than in a corporate bankruptcy. Vallejo has used this power in its bankruptcy case, which was filed in 2008. It is possible that a state could even renegotiate existing pension benefits in bankruptcy, although this is much less clear and less likely than the power to renegotiate an ongoing contract.

Whether states like California or Illinois would fully take advantage of such powers is of course open to question. During his recent campaign, Governor-elect Jerry Brown promised to take a hard look at California's out-of-control pension costs. But it is difficult to imagine Brown taking a tough stance with the unions. Even in his reincarnation as a sensible politician who has left his Governor Moonbeam days behind, Brown depends heavily on labor support. He doesn't seem likely to bring the gravy train to an end, or even to slow it down much.

But as Voltaire warned, we mustn't make the perfect the enemy of the good. The risk that politicians won't make as much use of their bankruptcy options as they should does not mean that bankruptcy is a bad idea. For all its limitations, it would give a resolute state a new, more effective tool for paring down the state's debts. And many a governor might find alluring the possibility of shifting blame for a new frugality onto a bankruptcy court that "made him do it" rather than take direct responsibility for tough choices.

This brings us back to the issue of federal bailouts. When taxpayer-funded bailouts are inserted into the equation, the case for a new bankruptcy chapter becomes overwhelming. And it's a case for Congress to move now on the creation of a state bankruptcy law.

With the presidential election just two years away, the pressure to bail out California, Illinois, and perhaps other states is about to become irresistible. As we learned in 2008 and 2009, it is impossible to stop a bailout once the government decides to go this route. The rescue of Bear Stearns in 2008 was achieved through a "lockup" of its sale to JPMorgan Chase that flagrantly violated corporate merger law. To bail out Chrysler and General Motors, the government used funds that were only authorized for "financial institutions," and illegally commandeered the bankruptcy process to give the car companies a helping hand. There is, in short, no law that will stop the federal government from bailing out profligate state governments like those in California or Illinois if it chooses to do so.

The appeal of bankruptcy-for-states is that it would give the federal government a compelling reason to resist the bailout urge. President Obama is no doubt grateful to California for bucking the national trend in the election this month, but even he might resist bailing the state out if there were a credible, less costly, and more effective alternative. That's what bankruptcy would offer.

Indeed, even those who still believe (quite mistakenly, in my view) that the 2008 bailouts were an unfortunate necessity for big financial institutions like Bear Stearns and AIG, and that bankruptcy wasn't a realistic alternative, should agree on the superiority of bankruptcy for states. The case for bailing out financial institutions rested on a concern that their creditors would "run" if the bank defaulted, and that the big banks are so interconnected that the failure of one could have devastating spillover effects on the entire market.

With states, none of these factors applies in anything like the same way. California's most important creditors are its bondholders and its unionized public employees. The bond market wouldn't be happy with a California bankruptcy, but it is already beginning to take account of the possibility of a default. And bondholders can't pull their funding the way a bank's short-term lenders or derivatives creditors can. As for California's public employees, there is little reason to suspect they will be running anywhere.

Bankruptcy isn't perfect, but it's far superior to any of the alternatives currently on the table. If Congress does its part by enacting a new bankruptcy chapter for states, Jerry Brown will be in a position to do his part by using it. ♦

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More Adam Smith, Please . . .

and less Barbara Ehrenreich

By Charlotte Allen

It is only a slight exaggeration to say that most recent college graduates learned everything they know about capitalism from Barbara Ehrenreich. Ehrenreich's 2001 book *Nickel and Dimed* was compulsory summer reading for entering freshmen throughout most of the past decade at countless campuses across the country, including Smith, Rutgers, the State University of New York-Brockport, Slippery Rock University of Pennsylvania, the University of North Carolina-Chapel Hill, Appalachian State University, Illinois Wesleyan, Northern Arizona University, and California State University-Northridge. At none of those campuses were students at any level, from freshmen to graduating seniors, required to read a single word written by Adam Smith, whose *Wealth of Nations* (1776) is considered the seminal philosophical justification for a Western economic system that relies on private property and private investment and allows the market, not governments, to set wages and prices, in the process generating prosperity from the pursuit of self-interest. Nor were those students—and the same can be said for their successors enrolled in college today—required to read any of the seminal philosophical critics of capitalism, such as Karl Marx or Ferdinand Tönnies, who famously worried that social systems based on *Gemeinschaft* (traditional bonds of family and neighborhood) were being replaced by those based on *Gesellschaft* (impersonal monetary and contractual relations).

Instead of works by leading 18th- and 19th-century thinkers, college students got the adventures of Ehrenreich, a self-proclaimed socialist, dabbling in minimum-wage blue-collar employment such as waitressing, cleaning houses, and clerking for Walmart. Her *modus operandi* was to put in a few weeks on the job, quit in a huff over such indignities as having to scrub toilets or be nice to customers, and then complain about employee drug-testing at Walmart and the impossibility of surviving on $7 an hour (impossible for Ehrenreich, that is, since she lived by herself in relatively costly motel rooms instead of with family like most of the real-life working poor). Instead of wondering whether some people stay poor and live in poverty because they make lousy lifestyle choices such as dropping out of high school and bearing children out of wedlock, Ehrenreich made the zero-sum argument that people are poor because the rich systematically steal from them, for example by buying up all convenient residential land for "condos, McMansions, golf courses, or whatever they like," thereby forcing those at the bottom of the ladder into shabby trailer parks from which they commute to their "junk" jobs.

What can we do about an academic system so beset with ideological bias and anti-intellectualism that teachers would rather expose their students to a piece of flippant and ephemeral journalism than to one of the classics of the West?

Nickel and Dimed has pretty much run its course as required freshman reading, having been supplanted by Eric Schlosser's war against junk food and Elizabeth Kolbert's campaign to have the federal government force people to clamp down on carbon emissions. The point is that, for nearly a decade, professors and administrators at institutions of higher learning across America who do not consider Adam Smith to be essential reading for their students made Barbara Ehrenreich mandatory. This is not just an indictment of the anti-intellectualism of an academic system that would rather expose its students to a piece of flippant and ephemeral journalism than to one of the classics of the West. It is also a revelation of the pervasive ideological imbalance on

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campuses. Ehrenreich's tract passed for an uncontroversial requirement; any effort to introduce college students to a fair—not boosterish, simply fair—evaluation of capitalism with all its virtues and drawbacks would likely provoke a faculty revolt.

What to do? College students and their elders certainly have a healthy level of interest in market economics. Friedrich Hayek's *Road to Serfdom* (1944), arguing that government control over the economy inevitably leads to tyranny, has sold more than 400,000 copies in recent years. The results of this November's elections indicate that a resounding majority of Americans reject the massively interventionist and economically suicidal policies of the Obama administration and a Democratic-dominated Congress. Yet market-friendly economists and their allies among historians, political theorists, and other scholars who believe that capitalism has not received a fair hearing in college classrooms are deeply divided about how to proceed, given the reality of the ideological proclivities that prevail in academia. Reform the curriculum for economics majors (one of the most popular majors on many campuses) so that the history of economic thought is a part of the instruction? Try to reach a larger slice of the student population with stand-alone seminars and other courses that might serve as counterweights to the usual anticapitalist propaganda? Make economics part of the interdisciplinary freshman seminars offered at many liberal-arts colleges? Bring outside speakers to campus? Mentor promising students? Sponsor clubs and discussion groups in order to air libertarian and conservative economic ideas? Fund internships and visiting fellowships in order to expose students to classical liberal scholars whom they might not meet on their statist-liberal campuses? All of the above? Or is it unrealistic to think that overwhelmingly liberal faculty members and college administrators will even allow such enterprises onto campuses?

Even if more economists were sympathetic to free-market ideas, most of them would have no place in their departments to teach them. Alone of the social sciences, economics is a discipline that has lost interest in its own intellectual history.

That the prevailing political culture of American academia leans heavily toward pro-regulatory, big-government liberalism if not outright leftism—and hence toward institutional hostility to capitalism—is a given. Decades of research support this proposition, ranging from the studies of professorial political alignment published by Seymour Martin Lipset during the 1970s, 1980s, and 1990s to reports in *Inside Higher Ed* and the *Daily Princetonian* that professors and other college employees overwhelmingly directed their contribution dollars in 2008 toward presidential candidate Barack Obama and his fellow Democrats (92.4 percent of donations of more than $200 went to Obama at Princeton alone). In 2003 Daniel B. Klein, then a libertarian economics professor at Santa Clara University (he is now at George Mason University), and Charlotta Stern of the Institute for Social Research at Stockholm University conducted a large-scale survey of the political parties for which American academics voted. They chose six social-science and humanities fields that, coincidentally, are the sorts of fields in which the ideas of Adam Smith might be expected to receive an airing: anthropology, economics, history, political and legal philosophy, political science, and sociology. Their results bore out what the journalists reported concerning the Obama campaign a few years later: Anthropologists voted for Democratic over Republican candidates by a 30.2 to 1 ratio, and sociologists favored Democrats over Republicans by a 28 to 1 ratio. Toward the bottom of the ladder were political scientists, who still supported Democrats over Republicans 6.7 to 1. Even economists, typically regarded as conservatives among college faculty for their presumably hard-headed numbers-crunching, voted Democratic over Republican by a 3 to 1 ratio, with younger faculty members tilting more liberal than their older colleagues. "The social sciences and humanities are dominated by Democrats," Klein and Stern wrote. "There is little ideological diversity."

Furthermore, even if more academic economists were sympathetic to free-market ideas, most of them would have no place in their departments to teach them. Alone of the social sciences, economics is a discipline that has lost interest in its own intellectual history. At Yale, for example, undergraduates majoring in economics can choose among more than two dozen lecture courses and seminars during any given semester, ranging from the basics of micro- and macroeconomics to specialized classes bearing such titles as "Financial Markets," "Trade and Development," and "Economic Development of Japan." In not one of those courses does it seem possible to read and discuss Adam Smith—or Karl Marx, Friedrich Hayek, Max Weber, Joseph Schumpeter, John Maynard Keynes, Ludwig von Mises, Ronald Coase, and other seminal thinkers whose theories shaped the academic discipline

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of economics and economics-focused political theory.

That was not always the case, according to Bruce Caldwell, a research professor of economics at Duke University whose scholarship concerns the works of Hayek. "The discipline [of economics] began during the 1950s to view itself as very much a scientific discipline," he said in an interview. "This was something that Hayek fought against. He fought against the positivistic tendency to treat economics like engineering, for example. But now, there's a self perception by economists of our discipline—that we are scientists and that in economics, as in other sciences, there is a gradual accumulation of truth and steady progress toward greater knowledge. So most economists believe that we don't need a history of our discipline, which would only show past mistakes. In many economics departments there might be someone teaching the history of economics, but that person is probably an older person, and when those people retire, they're not replaced. It's very different from the other social sciences, where, in sociology, for example, of course you read Marx and Durkheim and the rest."

That leaves most of today's undergraduates with almost no classroom forum in which to learn about the philosophical and historical substrate on which Western capitalism rests. At best, they might sign up for a class such as communitarian theorist Michael Sandel's immensely popular "Justice" course at Harvard. There Sandel gives a generally respectful, if oversimplified, hearing to libertarian arguments favoring free markets (that they facilitate the production of goods and services that people want) but ultimately questions whether it is fair for society to lavish greater rewards on people who by sheer luck of the genetic draw happen to be smarter or more talented than others, with the implicit suggestion that the government ought to level the playing field. At worst, those students get Barbara Ehrenreich or their own Marxism-besotted English professors pontificating about ruling-class hegemony and multinational corporations.

"Freshmen are energetic and motivated, but they come in with notable deficiencies in their background," said William N. Butos, an economics professor at Trinity College in Connecticut. "I find that the students who had 'economics' at the high school level require the most deprogramming. What they come with is a kind of *New York Times* view of the world in which the market is supposed to be subject to massive and persistent failures. They have no analytical framework with which to draw those kinds of conclusions. They are simply mimicking what they've read elsewhere."

As a result—as a 1999 survey conducted by the Council for Economic Education indicated—most people, including students, poorly comprehend even the most elementary and agreed-upon principles of economics. Fewer than half of American students, for example, understood that when interest rates go up, so do savings, and only about one-third recognized that the statement "money holds its value well in times of inflation" is incorrect. Fewer than half realized that when the government sets price ceilings, such as rent control for housing, supply falls.

It is not that college students are necessarily antibusiness. Jerry Z. Muller, a professor of modern European history at the Catholic University of America who has written several books about capitalism, conducted a survey of the future employment plans of the 15 members of the Dartmouth class of 2010 who had majored in history. He found that 5 out of the 15 intended to work in finance and a sixth had a job with another business, the St. Louis Rams (the rest intended to teach, attend law school, do medical research, and volunteer). They're not "Leninist cadres," said Muller, speaking at a day-long conference on October 6 in New York sponsored by the Manhattan Institute's Center for the American University (Klein and Butos were also participants). Yet, as the Council for Economic Education discovered in its survey, most are grossly uninformed or misinformed about how the market system works, or why its proponents believe that it is superior to other economic arrangements in delivering prosperity, raising standards of living, and honoring personal freedom.

And the problem of how to offer those students a more nuanced perspective on capitalism remains. The history of trying to institute alternatives to conventional progressive-to-leftist economic and political thinking on college campuses is a history of genuine successes (the James Madison Program in American Ideals and Institutions at Princeton, the Center for the History of Political Economy directed by Caldwell at Duke, the Political Theory Project at Brown dedicated to "market-based approaches to social problems" and headed by John Tomasi, an associate professor of political science) interspersed with some mixed results and spectacular failures. The most disheartening of the failures was the $20 million gift in 1991 to Yale, one of the largest in the university's history, by Texas billionaire Lee M. Bass, a Yale alum, for the funding of traditional courses in Western civilization. Yale returned the gift in 1995 amid vociferous complaints by faculty members that Bass intended to exert too much control over the content of the courses and who was to teach them.

In 2006 Robert Paquette, a history professor at Hamilton College in Clinton, N.Y., tried to set up a campus program, to be called the "Alexander Hamilton Center for the Study of Western Civilization," that would offer

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lectures, colloquia, conferences, fellowships, and internships, all focusing on such historical, philosophical, and political themes as property rights, slavery, and the meaning of freedom. Funding would be supplied by a $3.6 million grant from a longtime Hamilton trustee, Carl Menges, and smaller gifts from institutional donors. The center won the signed approval of Hamilton's president, and all seemed to go well—until Hamilton's faculty voted by a margin of more than 80 percent to demand that the college rescind its support. (Paquette had already made campus enemies by his outspoken criticism of left-wing adventures on the Hamilton campus, such as a later-canceled campus speaking engagement in 2005 for Ward Churchill, notorious for writing that the 9/11 victims had deserved their fate.) The project collapsed when Paquette refused to agree to a new charter that would have given the Hamilton faculty control over the center's programming and research, and Menges resigned from the board of trustees. Paquette, with Menges's financial backing, managed to set up his program in late 2007, but only as an autonomous "Alexander Hamilton Institute" on the other side of Clinton that has no official connection to the college.

Since 1999 John Allison, the former chief executive of BB&T, a leading bank headquartered in Winston-Salem, North Carolina, has been funding, through BB&T's charitable affiliate, courses and programs on the ethical foundations of capitalism at about 60 colleges and universities public and private in the South and Southeast (recipients have included prestigious Duke University as well as many lesser-known institutions). The grants have varied in size and the programs in ambition. Clemson University's College of Business and Behavioral Science has received nearly $5 million since 2005 to fund an Institute for the Study of Capitalism that sponsors courses, research, conferences, fellowships, summer camps for high school and college students, and summer institutes for high school teachers. At other campuses grants from Allison have been more modest, ranging from $500,000 to $1 million to pay for more modest centers or single courses to be offered over a period of years.

Problems have arisen because a condition of some Allison grants is that the recipient college assign Ayn Rand's 1957 novel *Atlas Shrugged* as part of required reading for the funded course. Allison discovered Rand as an undergraduate business major at the University of North Carolina during the 1960s, and *Atlas Shrugged*, with its celebration of businessmen and businesswomen as heroic individualists who confer benefits on society by pursuing "selfishness" (Rand's word), is his favorite book. *Atlas Shrugged*, while a perennial bestseller and an important artifact of 20th-century culture, is not exactly great literature (stilted dialogue and cardboard characters have ranked among the defects pointed out by critics), and it is in *War and Peace* territory at more than 1,100 pages, including a 70-page monologue by the novel's libertarian hero, John Galt.

Even staunch defenders of free-market capitalism might legitimately object to having students use up precious homework time plowing through *Atlas Shrugged* when they could be reading more Alexis de Tocqueville or Frédéric Bastiat. And unsurprisingly, the *Atlas Shrugged* requirement that Allison has imposed on some programs has turned into a lightning rod for liberal professors aghast at the idea that some part of a college curriculum might include a sympathetic portrayal of capitalists, or indeed any curriculum over which the faculty senate might not have the final say. In 2006 the faculty at Meredith College in Raleigh, North Carolina, voted overwhelmingly to turn down a $420,000 grant from BB&T for an honors program that was to include a course to be titled "Global Capitalism and Ethical Values" and would have made *Atlas Shrugged* and *The Road to Serfdom* required reading. Since then, the American Association of University Professors has been on a campaign, through articles for its print and online magazine, *Academe*, to shame other institutions of higher learning into turning down Allison money on the ground of inappropriate outside control.

Such stories serve as warnings of the perils awaiting even the best-intentioned and best-funded efforts to create an alternative center of gravity on a progressive campus. Even long-established conservative centers can get into trouble, as did Stanford's 51-year-old Hoover Institution, which faced a massive, if ultimately unsuccessful, protest by faculty and students over its hiring of Donald Rumsfeld, secretary of defense under George W. Bush, as a visiting fellow in 2007. Furthermore, the programs can be dauntingly expensive. The annual budget for Princeton's James Madison Program is about $1.5 million, paying for 13 visiting scholars (some of whom teach courses at Princeton) as well as conferences, lectures by outside scholars, and discussion sessions for undergraduates. John Tomasi's more modest venture at Brown spends about $500,000 a year, and Caldwell's economic history project at Duke has an annual budget of $175,000. "I think that the course offerings at Brown are exemplary," Muller wrote in an email. "But because they are taught by post-docs brought in especially for the purpose, it would be difficult to replicate at a smaller and less wealthy institution like CUA."

An even more intractable problem is what might be called ideological demographics: Where do you find enough academics committed to free markets and classical liberalism to do justice to courses on capi-

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talism? Earlier this year the *New York Times* reported on a paper published by two sociologists, Neil Gross of the University of British Columbia and Ethan Fosse, a graduate student at Harvard, concluding that the reason so few political conservatives are college professors isn't so much that they face discrimination by their teachers and tenure committees as that academia is typecast as a liberal career—just as nursing is typecast as a women's career, with the result that only 6 percent of nurses are men. "These types of occupational reputations affect people's career aspirations," Gross told the *Times*. Helped along by the radical leftist political movements that swept over campuses during the late 1960s, liberalism and academia have become entwined in an ideational double helix, with liberals and professors sharing and reinforcing such characteristics noted by Gross and Fosse as advanced degrees, tolerance for controversial social ideas, nonconservative to nonexistent religious beliefs, and disparities between education and income. Their findings reinforced Daniel Klein's data concerning the voting patterns of social scientists. Klein and Stern wrote that in making hiring decisions, "the majority [of faculty] will tend to support candidates like them in the matter of fundamental beliefs, values, and commitments."

Those sorts of findings, coupled with personal experience, have led some otherwise market-sympathetic professors to cynicism about the realistic possibility of changing either campus culture or the ideological and political views of students, which have likely been already shaped by their Boomer and Gen X parents or their generally liberal high school teachers. "It's easy to get a course approved," said Jeffrey Miron, director of undergraduate studies in Harvard's economics department, at the Manhattan Institute conference. "All I have to do is go to my department chair. But a course can be a two-way sword. A capitalism course can be used to create an anticapitalism course, depending on who teaches it. Interdisciplinary courses most of the time are a Trojan horse for pushing leftist views. They're mushy, and they're frequently bad. Kids and their parents sacrifice to get into schools that have exactly the curricula that we're critiquing here. They think that a left-leaning model is what's good for the economy—and so do their parents, who went to the same schools and got good jobs and have careers. They read the course catalogue, and they read the op-ed page, and they say, 'Where's the market failure in this educational model?'"

Miron's solution to the problem of teaching capitalism is minimalist but apparently effective, at least in his own discipline: Design an elective course in which you forthrightly offer your own antistatist views as a counterweight to those of the rest of the faculty—in other words, play the token libertarian, because, if Daniel Klein is right, that's what you are. Miron titles his own course "A Libertarian Perspective on Economic and Social Policy." It is a kind of anti-Michael Sandel class that covers a range of hot-button political and ideological issues—"drug prohibition, gun control, public education, abortion rights, gay marriage, income redistribution, and campaign finance regulation," according to the course description—from the perspective of advocacy of minimal government interference. In an email Miron said that he usually has about 200 Harvard undergraduates enrolled in his course every year who come in with "a variety of political views. A few change their minds, but not all by any means!"

Still, many professors who have taken a more irenic approach to teaching about capitalism—eschewing the overtly politicized approach that might have sunk Lee Bass's project at Yale and raised questions about Allison's Ayn Rand courses, and also avoiding the personal friction that surrounded the founding of the Hamilton Institute—have reported successes. Muller, for example, teaches a well-subscribed class on capitalism at the Catholic University of America that examines the theories of Smith and Hayek—but also the theories of Marx, Tönnies, and other critics of the market system. Muller's course, like Miron's at Harvard, is the product of his own intellectual passions that happen to fit well with offering a counterweight to the negative perspective on free-market economics that is standard on most campuses. But Robert George, the Princeton professor of politics who set up the James Madison program in 2000 after years of pleading for funding from conservative foundations leery of giving after the Bass fiasco, argues that even more ambitious programs based on outside financing can succeed if they are proposed with sufficient diplomacy and by making it clear that the aim is not to fight a culture war. "There are a thousand members, roughly, of the Princeton faculty," George told the Manhattan Institute's conference. "I don't need 500 who agree with me. I don't even need 50, I need 15. If we've got 15 people who are willing to seriously engage the established campus orthodoxy, it will transform the climate."

George said that his strategy for getting dissenting voices heard was to play to the very tolerance and open-mindedness upon which liberal department chairs and administrators pride themselves—to call their bluff, as it were, so that Barbara Ehrenreich and her ideological allies don't have the last word on capitalism. "There are many honorable liberals who are in fact open to students' hearing competing points of view," said George. "Honorable people. Find them. You can do business with them. They're open to the argument. Often they just haven't heard it." ♦

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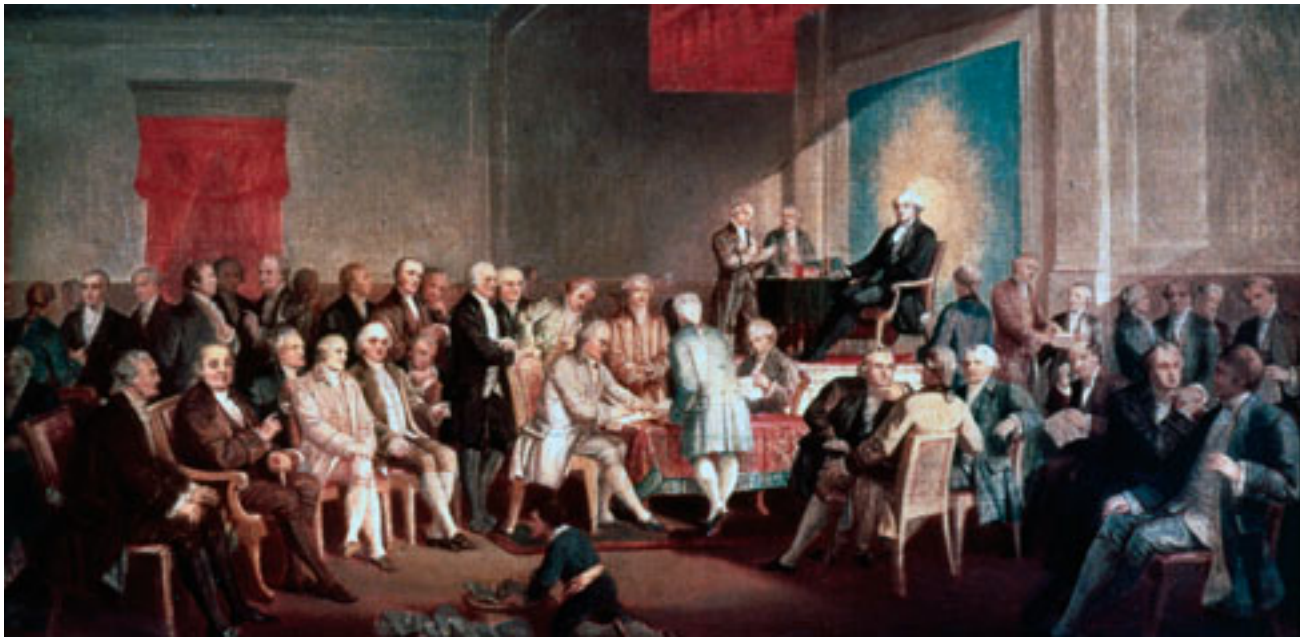

'Signing the Constitution of the United States' by Thomas Pritchard Rossiter (1878)

MPI / GETTY IMAGES

Closing the Deal

Framing the Constitution was one thing, ratifying it was quite another

BY JAMES M. BANNER JR.

As hard as it is to believe, this is the first complete history ever written about the American people's acceptance of the Constitution written in Philadelphia in the summer of 1787. That fact alone makes Pauline Maier's book pathbreaking. It is also authoritative, masterful, and definitive.

Ratification
The People Debate the Constitution, 1787-1788
by Pauline Maier
Simon & Schuster, 608 pp., $30

Maier is known for her earlier studies of the coming of the Revolution, of the older figures among the revolutionaries, and, most recently, of the Declaration of Independence and its many sister declarations—the last a work of many surprises. Few know the revolutionary era as well as she, and few are as dogged in their research. With characteristic modesty, Maier credits the close-to-complete letterpress edition of the state-by-state record of the Constitution's ratification in 1787 and 1788 for making possible the newest of her works. Those volumes are truly extraordinary in exhaustiveness and accuracy. It remains the case, however, that it is Maier and none other who has used the contents of the existing volumes to write this particular book, and then made up in archival digging and broad scholarship for those volumes that have not yet appeared.

That we have had to wait roughly 225 years for such a work has much to do with the place that the Declaration and the Constitution hold in Americans' minds. The first spelled out our enduring commitments, the second the basic structure of American government ever since. But while the Declaration was adopted in a moment of revolutionary passion, the Constitution was the product of a more sober, disenthralled time. It was also the product of two distinct, if linked, sets of acts: first, of the celebrated gathering that wrote and adopted it; second, of the independent state conventions that ratified (and in two cases did not ratify) the text agreed to earlier in Philadelphia.

Since then, Americans have vaunted the "miracle at Philadelphia"—the writing of the Constitution by a group of "demigods"—but paid little attention to the second act of that world-historical drama: the debate about whether the proposed constitution warranted the people's backing. That battle was, in Maier's

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words, "one of the greatest and most probing public debates in American history," one that took place "in newspapers, taverns, coffeehouses, and over dinner tables," and engaged Americans, women as well as men, of all ranks and status everywhere. Ratification was, of course, fought out formally only among adult white men, for only they were authorized to exercise political power in the 18th century. Yet modest as well as great men participated in this public battle, and voices that rarely break through the record of great constitutional events made themselves heard with clarity and force.

"One excellent effect produced by the constitution," one contemporary New York newspaper reflected, was "that almost every man is now a politician, and can judge for himself" the merits of the proposed constitution. The whole nation was involved in constitutional debate as rarely, if ever, it has been since. Maier captures all of the debate with unvarying balance and skill.

Yet notwithstanding widespread engagement in this high-stakes drama, ratification was never guaranteed. We forget how narrowly the Constitution won approval, by what whisker's breadth the United States has not been governed since the 1780s under another kind of constitutional regime. For had the proposed constitution gone down to defeat in the ratification conventions, as often it nearly did, the United States would have continued to be governed, at least for a while, under the weak Articles of Confederation.

And then by what? Who knows. It's hard to imagine that a second attempt would not have been made to replace the Articles, but any constitution emerging from a second convention would not have been the one we know now. It is Maier's purpose to relate the tale of how ratification secured this Constitution, the longest-lived written national constitution in the world.

Directly after the proposed constitution's emergence from Philadelphia, and as soon as the Confederation Congress agreed to send the text forth to the states for consideration, the proponents of the Constitution, the "Federalists," had to decide whether or not they would accept revisions and amendments to the document proposed along the way by their "Antifederalist" opponents. Their negotiating stance, if it can be called that, was simple and firm: "This or nothing." Such a granite strategy needed to work in 9 of 13 states, for the Framers' draft had deftly got around the paralyzing rule of the Confederation Congress that all changes to or replacement of the Articles of Confederation required unanimity. But securing ratification in even 9 states proved difficult; and were any of the major states to withhold their approval, the entire union would remain in peril. So even if the end result seems to have vindicated the Federalists' all-or-nothing strategy, that strategy was not without danger.

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Alternative approaches did exist. One was to allow ratification conventions to approve the Constitution conditionally—to give their consent only in return for particular, specified changes to the original text. But this approach ran the risk of making reconvening the Philadelphia convention almost certain. Another was to accept ratification on the understanding that the first federal Congress would consider amendments proposed by the states. The Federalists gradually came to accept this modest deviation from their basic approach: They would accept nonbinding suggestions for amendments as the price of ratification in those states where only this concession would gain a majority vote for ratification.

Even so, it was a close call.

Maier devotes the bulk of *Ratification* to detailing arguments and events in each state convention. In another's hands, her approach might have been plodding and dull; constitutional argument does not lend itself naturally to liveliness and color. But while the nature of her subject often requires her to subdue her well-known effervescence, Maier manages to give vivid life to the debates and debaters. In Pennsylvania, the first state to take up the Constitution, the Federalists steamrollered their Antifederalist opponents, effectively closed the newspapers to them, and left opponents and others with a bad taste in their mouths. From then on, those who had the initiative in their hands—those who had written and now fought for the new frame of government—conceded their Antifederalist opponents more time and occasion to argue their case while waiting for fatigue to set in and watching as, one by one, the states slowly fell into line.

But confidence in the final outcome was always misplaced as long as the results in Virginia and New York, among the last three states to schedule their conventions, remained in doubt—even when the ninth state had signed on. And remain in doubt they did, giving the final months of this epochal battle all the drama of great theater. Had these two states not ratified the Philadelphia text, the union might not have endured.

The apogee of debate was reached in the Virginia ratifying convention, "a battle of giants," as Maier terms it, whose greatest figure, the Constitution's avowed opponent Patrick Henry, thundered away and kept the Federalists there on the defensive and in a state of anguished worry. If Virginia failed to ratify, New York's ratification would no doubt also fail, and the Constitution would be

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doomed. James Madison, Edmund Randolph, and others entered the lists against Henry to extract success from the fires he set. Others who would later command the nation's attention—James Monroe, John Tyler Sr., Benjamin Harrison, and John Marshall—played their own parts. The Federalists narrowly carried the day, but not before agreeing to a set of proposed amendments, many of which Madison later squired through Congress to become the Bill of Rights.

The battle in New York, which was to become the 11th state to ratify, was no less fraught, the suspense there probably even greater than in Richmond. Virginia's ratification made New York's situation awkward, for if the state did not ratify the Constitution, it would be the only major jurisdiction still outside the union. But New York's governor George Clinton—no Patrick Henry, we might say, but a force to reckon with notwithstanding—proved unmovable, even with such figures as Alexander Hamilton and John Jay entering the contest against him. Save for the defection of a few Antifederalists to the opposing camp, New York would have remained, at least temporarily, an independent jurisdiction—just as, for a time, North Carolina and Rhode Island did. Only by the thinnest of threads was the new Constitution secured.

None of the major outlines of this history is new. What Maier has added to it is detail, nuance, and suspense. Never before have the stakes been so vividly evident. Never before have the modest figures who had their brief moments of historical significance gained the historical portrayals they always deserved. And never before have we been able to see with the clarity Maier brings to her story how remarkable a crisis this constitutional moment was and how penetrating were the arguments on both sides of the debate.

Those who already know some of this history and the arguments among historians that have long surrounded it will be surprised by one characteristic of Maier's work. It is silent about one of the single most influential historical debates of the past century: whether the Constitution was the product of Enlightenment thought, of the political culture of the late 18th-century Anglo-American world, or of economic interests. The name of Charles A. Beard, who in 1913 inaugurated this enduring interpretive battle over the foundations of American government, does not even appear in the index, nor do the names of those scholars who did battle with Beard, reinterpreted the evidence he used, or took scholarship about the framing and ratification of the Constitution in new directions.

Patrick Henry

KEN WELSH / SPAINPIX-WPICS / NEWSCOM

Beard sought to establish the capitalist and class basis of American constitutional government in order to call into question claims made for its universal timeliness and applicability. While Beard's crude interpretation did not stand up to scrutiny, he indelibly established most, even if not all, of the bases on which historians still argue about the Constitution's origins and significance.

Ratification suggests, by its silence about this debate, that an era—a full century—of historiography of the Constitution has come to an end. Yet it's curious that Maier shows no interest in that debate one way or the other, because it's hard to think of a time since the 1920s when a review of the constitutional foundations of American mis-government and market economies run amok would be more appropriate than it is now. Nor would it have been inappropriate for Maier to suggest the unfavorable implications for originalist interpretations of the Constitution embodied in her history.

But she has no axe to grind, no overarching argument to offer. Her intent, made all the more justifiable by the previous absence of a book like this, is simply to narrate the story of one of the most critical moments in American history in all its complexity and suspense. But doing so without connecting the story's elements to a strong thematic or interpretive spine robs it of the clear place in the literature of its subject and, equally important, of a sense of its relevance to our times that it might otherwise have had. Hers is necessarily a story of often-dry debate, historical and legal back-and-forth, occasional moments of high oratory, but not of the kind of color, character, and pacing that makes naturally for exciting history. The book's interest and value lie elsewhere: in bringing to life the contents of debate, a sense of what hung in the balance, and the enduring consequences of the outcome.

Surely her conclusion is correct: that both sides, the Federalists and Antifederalists alike, won their battles, the Feds the basic document, the Antis the Bill of Rights. William Findley, a Pennsylvanian who had fought as hard as anyone to defeat the Constitution, eventually came round to the view that the Constitution deserved to be seen as a testament of freedom. It gave the United States, he wrote, "the best government in the world." ♦

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B&A

A Country at Prayer

What's the difference between faith, and having faith in religion? **BY JOSEPH BOTTUM**

Well, here it is, at last, at almost 700 pages—the enormous sociological survey of American religion, compiled over the past several years by Harvard's Robert D. Putnam and Notre Dame's David E. Campbell. And the most surprising thing about the book may be how unsurprising it actually proves. *American Grace: How Religion Divides and Unites Us* contains almost no data that common sense and a little careful observation wouldn't have told you about faith in the United States today.

Take, for example, Putnam and Campbell's conclusion that African-American churches and Jewish synagogues, with their endorsements of the left, more commonly engage in open politicking than evangelical megachurches or Catholic parishes, with their endorsements of the right—although none of America's houses of worship practice politics as openly as they did 60 years ago. Or take, for another example, the now-documented fact that regular churchgoers give more often to secular causes, and give a larger fraction of their income to secular causes, than do non-churchgoing and secular people. Or the fact that people who say grace before meals—an interesting and well-chosen marker of religiosity—are much more likely to be Republicans than Democrats, and the political gap between the grace-saying and the graceless is growing. Or that the evangelical boom that started in the 1970s is fully over, "a feature of the past, not the present." Or that "a whopping 89 percent of Americans believe that heaven is not reserved for those who share their religious faith." Or that the generations "of whom barely 5 percent say they have no religious affiliation" are being replaced by new generations "of whom roughly 25 percent say they have no religion"—a massive increase among the young of what Putnam and Campbell call "the nones."

American Grace
How Religion Divides and Unites Us
by Robert D. Putnam and David E. Campbell
Simon & Schuster, 688 pp., $30

Roman Catholic baptism, 1953

RALPH MORSE / TIME & LIFE PICTURES

If any of this comes as a shock, you simply haven't been paying attention. But that's almost always the effect of good quantitative sociology: It confirms good qualitative sociology—the observations and the guesses of the people who, though they haven't been counting, have nonetheless been watching. You won't be surprised by anything in *American Grace*, not by its dozens of graphs and careful statistics, nor by the vignettes of congregations that alternate with the statistical chapters and flesh out the narrative.

In the end, Putnam and Campbell's conclusions come to no more than this: Americans are generally religious, Americans are generally tolerant, and the general decline of religiosity among young people is usually explained, by those young people, as a fear of religion's apparent lack of tolerance. Even the antireligious younger generations are more pro-life than their parents (suggesting the fight against legalized abortion is winning), although they are much more approving of homosexuality (suggesting the fight against same-sex marriage is losing).

Of course, if the facts aren't surprising, the question still remains of what we are to make of those facts. Robert D. Putnam first came to wide attention with his 1995 *Journal of Democracy* essay "Bowling Alone" (expanded into a book in 2000). It was the most widely noticed of the many communitarian cries of those years, using the disappearance of bowling leagues as a figure for the general decline of participation in civic organizations in the United States. And the communitarian worry has never left Putnam's mind. *American Grace* is most concerned with the social dynamics that religion encourages. Religious people, the book argues, donate more, volunteer more, and attend town and school board meetings much more—but that's not because of any theology. It's because of the social networking born in religious practice, and the proof, for Putnam and Campbell, lies in the fact that "devout people who sit alone in the pews are not much more neighborly than people who don't go to church at all."

Thus, for example, the book's chapter on "Religion and Good Neighborliness" demonstrates that American believers express less tolerance of

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directly opposite views than do nonbelievers. It also shows, however, that this lessened tolerance isn't acted upon, and the result is that by every other measure, believers make far better neighbors than nonbelievers. What's more, the pro-religious statistics hold true across all lines of age, race, gender, and income.

To which one wants to say: *Yes, but*... There's a problem with communitarians' claiming of religion, and it's the problem that faces all theories of religion's social utility. Public order in a democracy—the liberalism that needs a people of virtue to maintain itself—seems to require the bulk of citizens to believe in God. As George Washington famously warned in his Farewell Address, "Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

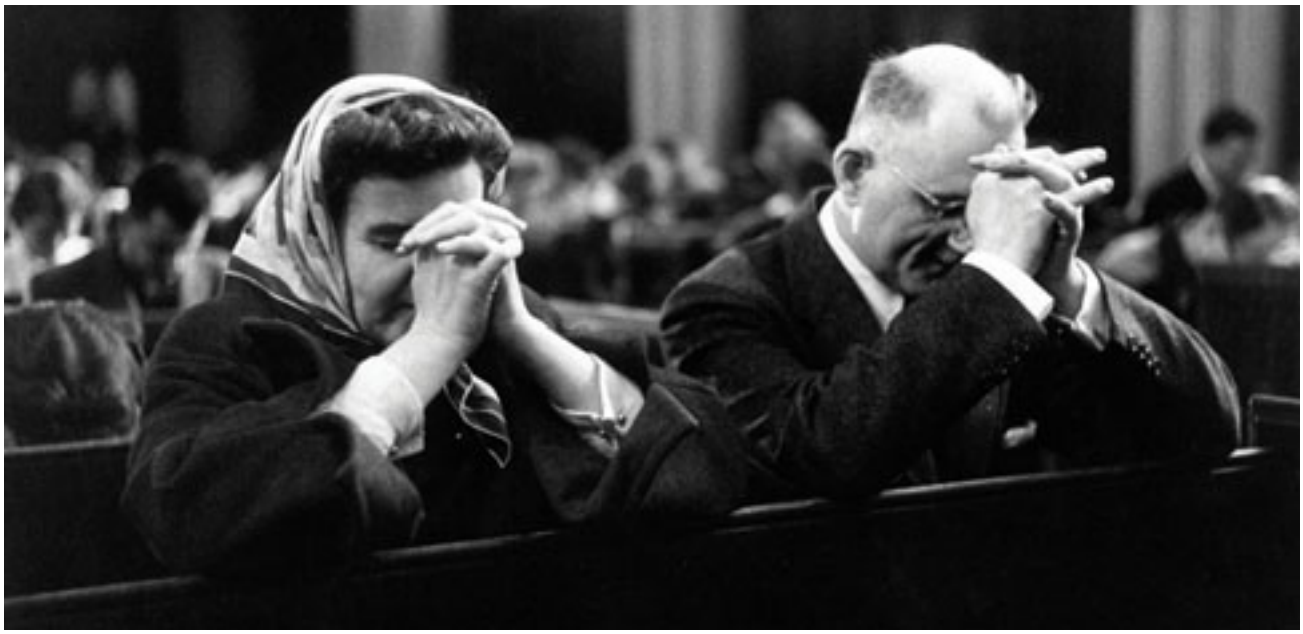
But no one ever believed in God for the sake of public order in a democracy. Especially not Americans. The social benefits of religion are a derived effect: The nation receives them when it has people who believe in God, not when it has people who believe in the social benefits of believing in God.

Perhaps Putnam and Campbell, performing their sociological work, should be forgiven for measuring only what sociology can measure, but the errors and gaps in *American Grace* are always on the side of gentle, get-along religion—like the bad arithmetic of the proverbial French waiter, whose mistakes are somehow always in his favor. Putnam and Campbell demonstrate that religion is less divisive than it's portrayed by the media—so much less, in fact, that it serves to lessen divisions that would be stronger without religion. That's the "grace" of the book's title. But they cannot answer the question of where that grace comes from, because they have deliberately excluded the theological language in which the answer might be phrased.

American Grace demonstrates that the "God Gap" in politics is large—and growing. That seems, of course, to run counter to the book's conclusion of religious comity and the contribution of believers to national unity. The problem, as Putnam and Campbell see it, is good old-fashioned sex. In just a few years after 1969, the percentage of Americans who held that premarital sex was not wrong leapt from 24 percent to 47 percent, and the trend has continued upward ever since. The great evangelical response of the 1970s and '80s proved unable to stop it and thereby triggered the political divisiveness that continues to this day: "libertines and prudes," locked in battle, "have successively provoked one another." Both sides in the political battle, the book argues, have failed to understand the great purpose of religion in providing the social benefits of community.

As an analysis, this won't do—primarily because it cannot explain Putnam and Campbell's own data about the pro-life views of the newer generations. The Supreme Court's 1973 decision in *Roe* v. *Wade* skewed American constitutionalism, American law, and American politics. Why should we be surprised that here it is again, skewing the sociology of American religion? This abortion-caused breakdown of the neat data collected in *American Grace* looks like a problem to Robert D. Putnam and David E. Campbell. But it might well be taken as evidence of what the book is missing: a hard effect of theology, a consequence of strong views. The authors can't quite bring themselves to see that America needs its believers to believe *something*, in order to gain the good social effect of having believers. And here is a measure of that fact: We must accept religion's potential divisiveness before we receive religion's potential easing of divisiveness.

It shouldn't be a surprise that this is exactly the solution to the problem of religion written into the Constitution. Perhaps that's a small American grace, but it's a real one. ♦



WALTER SANDERS / TIME & LIFE PICTURES / GETTY IMAGES

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B&A

Here Comes China

If and when the Middle Kingdom's potential is realized.

BY DAVID AIKMAN

The publishing industry owes a lot to China. Ever since the Boxer Rebellion reminded Westerners that China was not simply "inscrutable"—the tired qualifier from a thousand lectures and lantern-slide shows—but could be actively murderous towards foreigners, every decade has produced a plethora of China tomes. Some have been timeless and insightful, but most have simply reflected the particular Sinological fashion of the decade.

During the 1950s China's sudden transformation under Communism into a unified and powerful nation-state provoked a shower of books ruminating on the theme of China as a nation of ant-like automatons clad in blue Mao suits. During the 1960s the Cultural Revolution worried readers with the idea of an ancient civilization prodded into self-torment by Mao Zedong. Richard Nixon's visit in 1972 and Big Bird on the Great Wall were more reassuring sights and prompted many Americans to anticipate China's imminent adoption of Jeffersonian democracy in the 1980s. When this dream was rudely drowned out in Tiananmen Square it was time to return to the basic question: What was China really made of, and in which direction would it turn?

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China's successful management of the Olympics in 2008 demonstrated that the country was capable of organizing a national event watched by the world; yet China's looming economic power suggested that it might be headed in directions not previously foreseen. Hence a sort of return-to-the-roots approach in several recent studies: Some books began to reflect a darker projection of China's future than those written during the superficial optimism of the 1980s and '90s; in addition, more recent writers about China have tended to be younger academics, very different from the sages of earlier decades, such as John King Fairbank.

China in the 21st Century
What Everyone Needs to Know
by Jeffrey N. Wasserstrom
Oxford, 192 pp., $16.95

When China Rules the World
The End of the Western World and the Birth of the New Global Order
by Martin Jacques
Penguin, 576 pp., $29.95

Barack Obama meets Hu Jintao, 2010

AFP PHOTO / HO / FOREIGN MINISTRY / GETTY IMAGES / NEWSCOM

As a basic introduction to culture and history, Jeffrey Wasserstrom's *China in the 21st Century* achieves a workmanlike, sensible synthesis of historical narrative and analysis. It would serve well as an introduction to China for someone with just enough time to read about the country on a flight to Beijing. The titles of his chapters reveal his Socratic approach to the topic: "Who was Confucius?" "Who was the Gang of Four?" "What was the Long March?" Wasserstrom's weakness is a wishful prediction of China's future foreign policy, a bland dismissal of China's more egregious human-rights abuses, and an academic leftist swipe against George Orwell that is decidedly gratuitous.

For example, Mao's insane drive to collectivize and super-industrialize China during the 1958-1961 Great Leap Forward led to the deaths through starvation of an estimated 40 million Chinese. Wasserstrom's response is to allege that Mao was not "a fiend" but played a role in Chinese history comparable to that of Andrew Jackson in the United States. (I beg your pardon? Did Jackson institute policies that killed millions upon millions of Americans?) As for China's ultimate objectives: Don't worry, folks. China is too Confucian and reasonable to attack Taiwan or aspire to military hegemony. And regarding Orwell, rather than being a brilliant interpreter of political totalitarianism, he has subsided, in Wasserstrom's account, to "a one-dimensional poster boy for the anti-Communist Cold War Right."

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Martin Jacques's contribution to the literature is far longer than Wasserstrom's and provocative enough to be referred to for years to come. The issue that Jacques, formerly on the left wing of Britain's Labour party, takes on is the facile assumption of many about China—on both the left and right, here and in Britain—that the rise of China's economy will lead to imitation of American capitalist institutions and political democracy. Jacques makes his case forcefully and, indeed, repetitively: China will confront the world with a serious problem.

"The Chinese," he writes, "believe that China's rightful place in the world is as the world's leading power, and that the last two centuries represent a deviation from the historical norm." The last two centuries, of course, coincided with both the rise of the industrial West and Japan, and China's humiliation as the victim of "unequal treaties" forced upon it by foreigners. With a masterful array of statistics illustrating the relentless upward movement of its economic power, Jacques shows that China has skillfully deployed its diplomacy both to cement its primacy over economic and political affairs in East Asia and to build a global presence for the Chinese state that will enable it to dominate not just East Asia but the global business community.

China, Jacques predicts, will then draw not just "countries but entire continents into its web, as is happening already with Africa, and they will not simply be economic supplicants to a hugely powerful China but [will] also occupy a position of cultural and ethnic inferiority in an increasingly influential Chinese-ordered global hierarchy."

The Pax Sinica won't be pretty, and Jacques thinks it will be colored by a Chinese sense of cultural superiority that naturally elides into racism. He relates a sobering account of a conversation with a highly intelligent female student at a Shanghai university who is the model of cosmopolitan reasonableness—until Jacques mentions that some of the biracial couples he knew in America were Asian/African-American. She puckers up her face in disgust.

China's rise will not herald a new order of democracy, Jacques insists, but lead to a reversion to China's old status, in Confucian times, as the center of a tributary system in which China behaves not just as the center of global economic power, but the center of civilization itself. Only the rise of other developing powers such as Brazil, India, and Russia may offer some form of commercial and political counterbalance.

When China Rules the World is detailed, broad in its dimensions, and not just sobering but very nearly alarming. Where Jacques is strangely incurious is one area where Wasserstrom shows more imagination. China has been going through a remarkable cultural revolution of an entirely unpredictable kind during the past two decades, a discovery of religious passions and allegiances. If the rise of Christianity and other religions continues at its current rate, by the time China achieves its (presumed) economic destiny of global hegemony, its entire philosophical culture may have changed beyond recognition. At which point China's leaders may need far more evocative comparisons than Andrew Jackson.

Martin Luther, perhaps. ♦

B&A

Red Band Alert

A little titillation doesn't get you very far.

BY JOHN PODHORETZ

If, to paraphrase Philip Larkin, the sexual revolution began in 1963, then the sexual revolution is now well into middle age. And wasn't that supposed to be the point? Wasn't the sexual revolution supposed to give us a rational and mature perspective on matters of sexual intimacy rather than allowing us to continue to wallow in childish ignorance about it?

Well, now that the sexual revolution is nearing 50, I think we can all agree that it's proved to be less a wise and prudent channeler of Eros and more that sniggering, giggly, potty-mouthed, pockmarked adolescent it promised to allow us to vault over and rise up from. The old advertising line that "sex sells" is now taken to new extremes every week by marketers trying to figure out any way possible to claim a moment of our attention when it is no longer a simple matter to get anyone to watch an ad (except my six-year-old daughter, who howls in rage if I try to fast-forward through a Disney Channel commercial we've recorded on the DVR. "I *like* commercials!" she protests).

Consider, if you will, the red-band trailer. This is a preview of coming attractions like any movie trailer, only this one is rated R. You will rarely see a red-band trailer in a movie theater. It's made for the Internet, and its purpose is to create buzz for a film a few months before its release by offering up a movie's dirtiest bits and foulest talk.

A few of them, notably one for a horrible comedy misfire last year called *Hot Tub Time Machine*, feature out-and-out topless female nudity. Others, like the recent ones for a medieval comedy called *Your Highness* and a comedy tearjerker called *Love and Other Drugs* (which opens this week), simply feature characters talking about sex in the crassest possible manner.

Then there's *Friends with Benefits*, about twentysomethings who sleep

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together without strings attached, in which the mother of the girl says to the boy, "So what is my daughter, your slam piece? I'm just kiddin'. Slam away." The trailer then cuts to him performing a sex act that makes the girl scream.

The sex is not especially graphic in these red-band trailers or, indeed, in the movies that feature them. Graphic depictions of sex have been tapering off onscreen since the 1970s. Rather, the sexual content in the red-band trailer is intended to shock momentarily, titillate for a second more, and then leave the viewer with some kind of hunger to see the whole thing.

This all dates back two decades, to *When Harry Met Sally*. In her introduction to the published screenplay, Nora Ephron writes about how upset she was when Rob Reiner went on Johnny Carson and showed the movie's iconic scene of Meg Ryan faking an orgasm on the night before the movie premiered. It was the breakout moment, and by blowing the surprise, he was compromising their work. "Nora, we need the movie to open," Reiner told her, meaning: We need to put up good box-office numbers the first weekend.

The successful use of the movie's most ribald moment changed the way movies were marketed. Thereafter, promoting a movie meant not hinting at the glories to come but showing its most arresting moments. And since *When Harry Met Sally*'s big scene was a sex joke, marketers figured it was not the joke but the sex that sold it. And here we are, 20 years later, living with the fallout.

The problem is that the red-band trailer is an act of exhibitionism, and like all exhibitionism, it conveys a sense of anxious desperation: See what I'm willing to do to please you, to grab you? They are not only cringingly crude; they fail to do the job. Most of the movies promoted in this way are abject failures at the box office. Even the sniggering adolescent to whom the red-band trailer is supposed to appeal knows when he's being condescended to. ♦

B&A

Poet Remembered

How John Clare's home defined his life and work.

BY SARA LODGE

SARA LODGE

Clare's cottage, Helpston

Helpston, Northamptonshire

John Clare (1793-1864) oughtn't to have been a poet. Born to a barely literate farm laborer and his illiterate wife in the village of Helpston, a rural English backwater 80 miles north of London, Clare should have begun and ended his life ploughing, planting, reaping, and threshing. If he had followed the furrow set out for him by his fellow peasants, he would be one of the silent figures in a landscape of the kind painted by his mill-owning contemporary John Constable: a man just visible holding the horse by a hay wagon or bent over a barley stook in an autumn field.

But Clare refused to be bound by the limits of his class, his poverty, his basic education, and his rural dialect. His achievement is extraordinary in the annals of English poetry, not just because he was a brilliant writer but because he recorded scenes and experiences that no town-born or fine-bred poet could truly know. He voiced in print sounds and impressions that previously had existed only in the songs and signs of the land itself.

Clare's life would make a great movie. He flared into fame in the 1820s with the publication of his first book, *Poems Descriptive of Rural Life and Scenery by a Northamptonshire Peasant* (in some copies, it is spelled "Pheasant"). His work was edited by John Taylor, who also published Keats, and Clare became briefly the toast of literary London, attracting local patrons and distant correspondents. Like Robert Burns before him, Clare tickled the Romantic appetite for authentic, native poetry that spoke of a countryside and its customs that were rapidly being lost to enclosure, industrialization, and urban drift.

Sara Lodge, a senior lecturer in English at the University of St Andrews, is the author of Thomas Hood and Nineteenth-Century Poetry: Work, Play, and Politics.

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But the fashion for peasant poetry was short-lived. After the publication of his second book, although he continued to produce work of astonishing range and ambition, Clare found it difficult to get into print. His mental health had always been fragile, and the rapid transitions of his identity, from yokel to celebrity and back again, didn't help. Clare spent most of his last 30 years in a lunatic asylum, still writing sporadically wonderful verse, but all but forgotten by history.

Happily, Clare has many modern admirers. They gather each year in Helpston in July to mark Clare's birthday with a weekend-long festival. I have been a Clare enthusiast for years, moved both by his poetry and by the pathos of his life. But how do you celebrate the birthday of a mad poet who, in 2010, would be 217? Would there be a cake? And was it possible that, of the Clare Society's six hundred or so members, quite a few were slightly mad themselves? I decided to go and find out.

Helpston is a picture-perfect traditional English village, and I recommend a visit to any American who wishes to be transported into that indefinite period known as Days of Yore. There are neatly thatched cottages with gardens that in July brim with lavender, roses, and hollyhocks. There are three streets: One hosts the Bluebell Inn, one the school and the post office, and one the 12th-century church. They meet in an ancient crossroads, known as the Butter Cross, where Clare played as a child. From Clare's cottage (by the inn) to his grave, it is only a five-minute walk. The closeness of Helpston is instructive for anyone trying to understand Clare.

One of the things that is startling about his poetry is the intimacy he evokes and draws the reader in to share. Here he is taking us to see a nightingale's nest, "lost in a wilderness of listening leaves."

—there put that bramble bye
Nay trample on its branshes and get near
How subtle is the bird she started out
And raised a plaintive note of danger nigh
Ere we were past the brambles and now near
Her nest she sudden stops—as choking fear
That might betray her home so even now
Well leave it as we found it . . .

Other poets would give us the nightingale's bewitching song, the evening star, and rhapsodize about love, and art, and poetry. But Clare is interested in making us experience what it is *actually* like to disturb a nightingale's nest. He knows. He is deeply familiar with the materials of birds' nests, the color of their eggs, their alarm calls. In his poem, the intrusion stops the nightingale from singing. Closeness is both a delight and a problem.

Being in Helpston, you can see why the limits of the local were both a delight and a problem for Clare. He loved the landscape of gently rolling meadows, heaths, woods, and streams, and no poet conveys the ecology of his place more vividly. But he also yearned for intellectual adventure and a fame that would remove him from the cramping force of pastoral poverty. The cottage where Clare was born and where he returned to live with his parents, his wife, and children has recently been restored and opened to the public as a museum. It is tiny. It is hard to imagine six or more bodies sharing the space, let alone one of them writing.

The festival began with an evening walk on Torpel Manor fields, which border the village. A local trust has taken over the site, which is archaeologically important, harboring the remains of a medieval earthworks as well as a conservation area for rare wild plants, birds, and amphibians. It was a perfect July day, still warm at 7 P.M. (a rarity in Britain), and it was a pleasure to wander across the kind of wild space that Clare enjoyed.

From time to time, a Clare enthusiast came up to me and said, "Can I read you a poem?" This is the only occasion when I have been buttonholed in verse, and once I got used to being poured a sonnet, in the way that at a different kind of party you might be poured a dry martini, I decided I quite liked it. It is not always best to have a bard in hand; sometimes being surprised by two in the bush can be quite entertaining.

Afterwards, I meandered, as Clare might have done, to the Exeter Arms, a pub that hosts a folk music evening in Clare's honor. There I found a cheery sight. Pete Shaw, the amiable master of ceremonies, was leading an impromptu gathering of singers and players, including two violins, two guitars, a banjo, a double bass, and no fewer than five squeezeboxes. They were drinking a local ale, "Waterford Wherry," and improvising on traditional tunes that Clare himself, a keen fiddler, is known to have played. One guitarist also performed his own, modern settings of songs that Clare wrote. It was as if Jack Johnson had traveled to the early 19th century to do a jam session.

"I haven't really read much of Clare's poetry," confessed Pete, "but I know him through his music." During the festival, I came to realize that everyone had come to Clare through a different route—natural history, music, biography, literature, politics, even religion—and that everyone had their own Clare, someone they knew intimately, but who was not the same figure that another enthusiast would recognize.

Saturday dawned sunny and fair as the main celebrations got underway. The Clare Society had its Annual General Meeting in a tent behind the village school. I didn't observe any mad members, but mild eccentricity was much in evidence. There was a discussion about the increasing costs of printing and posting the society newsletter. "Why don't you just put it online?" someone suggested. This idea caused great consternation. I have a sense that many members of the Clare Society are better acquainted with Gutenberg than Google. As one of very few people present under the age of 40, I began to feel pleasingly young.

There were bookstalls, where one could buy everything from a Clare postcard to a first edition of *Poems Descriptive*, talks about Clare, local exhibitions of weaving and woodblock printing, and various kinds of Clare-related performance. At lunch I adjourned to the Bluebell Inn to watch the morris dancers. There is

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Clare's grave: 'A poet is born not made'

SARA LODGE

much hilarity at the expense of morris dancing in England, and Sir Thomas Beecham's adage—"In this life try everything once, except incest and morris dancing"—is widely quoted. You can see why. The spectacle of eight middle-aged men in white smocks, decorated with ribbons, bells and flowers, going through dance routines that involve bumping sticks and waving handkerchiefs has its comic side. But it is a friendly and ancient tradition, which dates back to Shakespeare's day. And Clare enjoyed it, writing a poem in praise of the men *deckt out in ribbons gay and papers cut / Fine as a maidens fancy off they strut / And act the morris dance from door to door / Their highest gains a penny nothing more*. The notion of ordinary people practicing an art that is fun, community-based, and available to all seems very much in the spirit of Clare's writing.

I joined a coach trip to the village of Great Casterton, where Clare was married in a church whose nave bears the monitory legend "Worship God and Obey Ye King." Then we ate homemade cake, with fresh cream and strawberries, in the Village Hall. The day ended at Helpston church, where individual Clare enthusiasts got up in turn to read their favorite poem. I was unexpectedly moved by this—particularly the sight of a woman suffering from a serious disease, who could barely walk on crutches to the altar, but then recited "Emmonsails Heath in Winter" from memory.

There is something about Clare: the directness of his language; his love of the natural world; his plangent protest against landowners who encroached on common land and denied ordinary people access to its benefits. Some writers have admirers. Clare, one feels, has friends.

I went out into the churchyard and stood by Clare's tomb—a long horizontal stone inscribed "A Poet Is Born Not Made." All around it were small baskets of flowers, "Midsummer Cushions," brought by local children who mark Clare's birthday by writing and reading out their own nature-inspired poems here. I reflected on whether the epitaph was apt. It seemed to emphasize Clare's native gift at the expense of his conscious and active struggle to become a poet. Critics continue to struggle over Clare's legacy—arguing, for example, about whether the (idiosyncratic, often absent) punctuation and grammar of his poems should be edited. Their debate reflects a wider battle over who owns Clare's manuscripts, where he belongs in the literary canon, and how we should best interpret his work.

None of these questions is straightforward. Yet, one thing was clear to me after spending time at the Helpston Festival: It is where John Clare brings people together, shaking hands with fellow readers who minutes before, were strangers, that his questing, lyrical, sociable spirit survives. ♦

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"Under a deal brokered by Speaker Nancy Pelosi, Mr. Clyburn will remain the No. 3 official in the House Democratic Caucus in the newly created role of assistant leader...." —**New York Times**, *November 14, 2010*

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NOVEMBER 23, 2010 *washingtonpost.com* • 75¢

Title fight: Reid vs. Schumer

CHARLES IN CHARGE

N.Y. senator becomes new 'Conscience of the Senate'

BY KRISSAH THOMPSON

NEWSCOM

Sen. Schumer tells the press to "permanently adjust your cameras to my eye level." Senators Reid and Baucus look on (with dismay).

Following weeks of relentless pestering, Sen. Charles Schumer (D-N.Y.) was finally granted his wish: "When Speaker Pelosi created a new title for Jim Clyburn," said Schumer, "it inspired me to come up with a new title or titles for myself—something that better reflects all the work I do around here but that nobody ever notices since I'm not one to toot my own horn."

Majority Leader Harry Reid (D-Nev.) had been delaying a decision on new titles, he said, "in the event reason or humility were to change my colleague's mind." Last night, Reid finally acceded to his demands. "Frankly," said the majority leader, "I just wanted to be left alone."

Schumer, the third-highest ranking member of the Senate, now will be known officially as "Chairman of the Democratic Policy Committee, Vice Chairman of the Democratic Caucus, Chief Democratic Message Developer, Conscience of the Senate, Director of Food and Beverage Services, Consigliere, and Media Darling." The last title enables the senator to stand front and center before any camera or microphone. "It gives him first dibs," conceded Reid. "He won't have to camp out in the hallway waiting for the TV crew to get set up."

"But these newfangled titles aren't just for show," Schumer insisted. "There's real work involved." The senator was then interrupted by a Domino's Pizza deliveryman carrying 10 large pies. "Sorry, I've got to sign for these—part of my new job as director of food and beverage services." Schumer carefully inspected the pies, removing a slice from each box, explaining that "literally, it's my slice of the pie."

Sen. Richard Durbin (D-Ill.), who ranks just behind the majority leader, admitted the titles were a bit excessive but also revealed there were a few monikers he and Reid rejected. "We refused to call him 'Historian of the Senate.' We also said no to 'Majority Leader in Waiting.' And we denied him the title of 'Master Debater,' although Chuck does love to debate, no doubt about it. In fact, we offered him the title of 'Chronic Master

SCHUMING CONTINUED ON A6

All in the technique

Bill Clinton to advise TSA on screening pat-downs

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